



**AGENDA
CITY COUNCIL
TUESDAY, MARCH 10, 2020
1371 WEST FM 550 - MCLENDON-CHISHOLM, TEXAS 75032
6:30 PM**

Page

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|---------|---|
| | 1. CALL TO ORDER |
| | 2. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS |
| | 3. RULES OF DECORUM |
| | 4. CITIZEN COMMENTS |
| | 5. APPROVAL OF CITY COUNCIL MEETING MINUTES |
| 4 - 14 | 5.1. Consider approval of February 25, 2020 Draft City Council Meeting Minutes
February 25, 2020 Draft Minutes |
| 15 - 17 | 5.2. Consider approval of March 4, 2020 Draft Special City Council Meeting Minutes
March 4, 2020 Draft Special Meeting Minutes |
| | 6. ITEMS TO CONSIDER |
| 18 - 45 | 6.1. Public hearing regarding a request by Muhammed Polani on behalf of MFS Group, LLC. requesting a zoning change from GB General Business to a Planned Development District for General Business on a 1.5 acre tract in the King Latham Survey, Rockwall CAD Property ID 10132, generally located south of FM 550 and State Highway 205. (Requested by Palomba)
Staff Report - Zoning Change Request |
| 46 - 52 | 6.2. Discussion and action regarding consideration of an Ordinance |

related to a request by Muhammed Polani on behalf of MFS Group, LLC. requesting a zoning change from GB General Business to a Planned Development District for General Business on a 1.5 acre tract in the King Latham Survey, Rockwall CAD Property ID 10132, generally located south of FM 550 and State Highway 205. (Requested by Palomba)

[Proposed PD Zoning Ordinance](#)

- | | |
|-----------|--|
| 53 - 71 | 6.3. Discussion and action regarding consideration of an Ordinance (2nd Reading) for final approval enacting a temporary moratorium on residential and commercial development in the City of McLendon-Chisholm's Extraterritorial Jurisdiction (Requested by Palomba)
<u>Staff Report - Building Moratorium in ETJ</u>
<u>Proposed Moratorium Ordinance</u>
<u>Moratorium Statute</u> |
| 72 - 85 | 6.4. Consider for approval a contract for election services between the Elections Administrator of Rockwall County and City of McLendon-Chisholm and Rockwall Independent School District. (Requested by R. Green)
<u>Election Contract</u> |
| 86 - 95 | 6.5. Discussion and action regarding ad Depository Agreement between the City of McLendon-Chisholm and Wilmington Trust, National Association. (Requested by Palomba)
<u>Wilmington Trust Depository Agreement</u> |
| 96 - 103 | 6.6. Discussion and action regarding consideration of authorizing the City Administrator to enter into an Engagement Agreement with Bickerstaff Heath Delgado Acosta LLP for limited legal services related to water supply and sewer service issues. (Requested by Palomba)
<u>Engagement Agreement</u> |
| 104 - 177 | 6.7. Consider a Resolution updating the City of McLendon-Chisholm Personnel Policies. (Requested by Palomba)
<u>Resolution Adopting Personnel Policies</u>
<u>Draft Personnel Policies</u> |
| 178 | 6.8. Consider Brian Lane for appointment as Planning & Zoning Commission Alternate Member. (Requested by Palomba)
<u>Brian Lane P&Z Application</u> |
| 179 - 199 | 6.9. Discussion and action regarding consideration of utilizing \$25,162 of Fire Department Capital Fund Balance for purchase of Personnel Protective Equipment for firefighters. (Requested by Chief Simmons) |

[Staff Report - Purchase of Firefighter Personal Protective Equipment](#)
[PPE Quote](#)
[MCFR PPE Policy](#)

- 200 - 201
- 6.10. Discussion and action regarding budgeting additional funds in the amount of \$45,000 to hire two full-time firefighters to fill SAFER positions and to add a new shift covering 7 a.m. to 7 p.m. (Requested by Chief Simmons)
[Staff Report - Firefighter Positions](#)
 - 6.11. Discussion and action regarding Council approval of a Memorial Day event to be held at City Hall. (Requested by Council Member Kipphut)

7. UPDATES, DISCUSSION AND DIRECTION TO STAFF

8. COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

- 8.1. Mayor Short's reports and announcements
- 8.2. Council Member Kipphut's reports and announcements
- 8.3. Council Member Bloom's reports and announcements
- 8.4. Council Member Hodges' reports and announcements
- 8.5. Council Member Woessner's reports and announcements
- 8.6. Council Member Dahl's reports and announcements

9. ADJOURN

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session in order to seek confidential legal advice from the City Attorney on any agenda item herein.

I, Shelly Green, do hereby certify that the above Notice of Meeting of the City Council of McLendon-Chisholm, Texas was posted on or before 5:00 p.m., March 6, 2020 on the outside bulletin board at City Hall, a place convenient and readily accessible to the public at all times.



**CITY COUNCIL MEETING
City of McLendon-Chisholm, Texas
Meeting Minutes
February 25, 2020**

The City Council of the City of McLendon-Chisholm convened in Regular Session on Tuesday, February 25, 2020, at City Hall, 1371 West FM 550, McLendon-Chisholm, Texas, with the following members present:

ATTENDING:	Keith Short	Mayor
	Jim Bloom	Mayor Pro-Tem
	Nathan Hodges	Council Member
	Lorna Kippbut	Council Member
	William Dahl	Council Member
	Trudy Woessner	Council Member
Staff Present:	Lisa Palomba	City Administrator
	Shelly Green	Interim City Secretary
	Jim Simmons	Fire Chief/Marshall
	Michael Halla	City Attorney

1. CALL TO ORDER

Mayor Short called the meeting to order at 6:30 p.m.

2. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS

Council Member Hodges delivered the Invocation and Mayor Short led the Pledge of Allegiance to the U.S. and Texas Flags.

3. RULES OF DECORUM

Mayor Short announced the Rules of Decorum are in place and are to be observed throughout the meeting.

4. CITIZEN COMMENTS

None

5. APPROVAL OF MINUTES

5.1. Consider approval of February 11, 2020 City Council Meeting Minutes

MOTION: APPROVE THE MINUTES OF FEBRUARY 11, 2020 AS PRESENTED.

MADE BY: Council Member Kipphut

SECONDED BY: Council Member Bloom

APPROVAL: Unanimous

6. PRESENTATIONS

6.1. Presentation regarding the US 2020 Census

Ed Kohorst, US Census recruiter for Rockwall County, made a presentation regarding the need for recruits, but also explained the process and answered questions regarding the US 2020 Census.

6.2. Mayor Short will present his State of the City Address

Mayor Short presented his State of the City Address as follows:

McLendon-Chisholm Today

- Population: 3,470 (est.) ... 152% growth since 2010
- 12.6 Square Miles with a mix of ranches, small farms and developments ... 2/3's agricultural
- 1,400 homes and small businesses
- Certified 2019 Taxable Value of \$487,854,405
 - 11.6% increase from 2018
 - 2019 medium home value of \$427,805
 - Property Tax Rate of 0.150000
- 1.5 acre per home future development

McLendon-Chisholm is a family friendly community

- United for Our Citizens
 - Council
 - City Staff

McLendon-Chisholm just turned 50

Who We Are

- Conservative Texans who believe in maintaining our rural lifestyle and family friendly environment
- Committed partner with Rockwall County and our sister cities to maintain a style of living we all enjoy
- Dedicated to maintaining open spaces reflective of our rural tradition with a mix of ranches, small farms, multi-acre homesteads & planned development

- Support developers and businesses who partner with us to maintain our small city traditions and heritage

Key Take Aways

- McLendon-Chisholm is united
- Committed to preserving our rural character & lifestyle by maintaining larger lot sizes
- We want commercial development consistent with the character of our city along the SH 205 corridor
 - Working with the County & TXDOT to ensure the SH 205 expansion benefits all
- We will be revising the Comprehensive Plan to reflect our lifestyle and views.

7. ITEMS FOR CONSIDERATION

7.1. Discussion and action regarding a proposed resolution establishing an Economic Development Committee as an advisory board, establishing rules and procedures for the committee and related matters.

Council Member Bloom asked a question regarding Section 4 – Attendance. He believes this can be clarified a little. He asked if the 75% attendance is a standard that we do for P&Z.

City Administrator stated she believes it is three meetings, she doesn't think there is a percentage.

City Administrator Palomba provided some background for this item. At the January 2019 meeting, six citizens were appointed by Council to an economic development committee as an advisory panel. Since that time, this ad hoc committee met for a handful of meetings, but no form or structure was ever decided on and no recommendations were forwarded to P&Z or Council. At this time, the committee has met and decided that the resolution that is attached in your packet is appropriate at this time and it formally establishes the Economic Development Committee. The resolution includes the mission statement, membership and meeting guidelines, training requirements, and attendance requirements. It lays out the structure and how it will be organized, and responsibilities and it also says that it will conform with the Texas Open Meetings Act. This just kind of formalizes the committee. If Council adopts the resolution, the committee asked that the Council announce that any interested citizens are encouraged to apply for a position by March 20th and further requests that Council make appointment to the committee during the March 24th meeting. Their intention is to kind of wipe the slate clean and have people reapply. Over time, a couple of people dropped out that were originally appointed, and some others have shown interest. So, they thought they would wipe it clean and start over fresh.

MOTION: APPROVE A RESOLUTION ESTABLISHING AN ECONOMIC DEVELOPMENT COMMITTEE AS AN ADVISORY BOARD, ESTABLISHING RULES AND PROCEDURES FOR THE COMMITTEE AND RELATED MATTERS WITH THE REQUESTED VERBAGE CLEAN UP.

MADE BY: Council Member Bloom
SECONDED BY: Council Member Dahl

Council Member Kipphut asked when they would decide who the Council Member would be.

City Administrator Palomba asked if they would like to make it a topic on the next agenda since they have some time for the application period.

Council responded they did not have a problem with that.

APPROVAL: Unanimous

7.2. Discussion and possible action regarding the status of and completion of the Code of Ordinances as initiated previously by the City

City Administrator Palomba introduced this item. She explained this is something that was started and never really finished. In January 2018, Council voted to hire Franklin Legal who manages our code, to provide an editorial and legal review of the current Code of Ordinances and suggest revisions to the Code.

So, Franklin Legal provided that review which is attached in your packet. City Council also voted at that time to hire the city engineer and the city planner to provide a technical review of the subdivision and zoning regulations and that was completed. Timelines were established for the remaining review of the code and adoption, however the review of all the chapters was never completed by that Council and code updates were never formally adopted. So, there is a summary in your packet of what was reviewed and what was not reviewed.

I talked to Kirk Franklin today from Franklin Legal and asked him about the best way to go forward. Our contract with him is gone now. He told me today that probably at this point the best thing to do would be for the Council to have a little subcommittee of maybe just two members or even one member and staff. They would go through and make sure that we have everything red lined that we want to change and then they as a group would bring that back to you and make sure you are comfortable with that and then he would go ahead and prepare ordinances without charge and we can adopt all of those at the same time. The only ones we would do separately would be our zoning and

subdivision ordinances. I'm suggesting that since the legislators made some changes and it's been a couple of years, that we may want to have another look at those even though we made some changes before. It might be time to just kind of look at them all one more time. At that time, we can adopt those as well. So, we are looking at a two or three step process, but I think we can get the bulk of the review done by the end of March and maybe by the end of April we have an adoption.

Council Member Hodges asked if it would be more efficient for them to review and make updates as needed if there are changes in the law like the last couple of years versus us reviewing and then them review it.

City Administrator Palomba ask if he meant the subdivision ordinance or the whole thing.

Council Member Hodges asked if would be better have him review initially, updating what needs to be updated, and then having that updated version to whoever we decide as a Council to review it.

City Administrator Palomba stated that he said his original legal review is still valid and at this time he just needs some questions answered. There are some questions in the review about Council preferences and then the rest of it would be for anything that Council wanted to change. I know we talked about updating our code enforcement. Chief Simmons needs a fire code in there, we don't have anything recent in there. The building official needs an update on the building codes. There are some things that we just need to formally establish. If you don't want to do a subcommittee, I can work and bring it to you either all together or a little bit at a time.

Council Member Kipphut stated she was initially asked to look at this and it become a little overwhelming. She stated she would appreciate if you, Nathan, would be willing to work with me.

Council Member Hodges asked Lisa if that would be something that she and the Chief could maybe work on all together.

City Administrator Palomba stated that they could, absolutely, all work on together. She stated she just felt mostly that she needs confirmation on things. Some things were red lined by the previous council that I think is something you all would want to put your hands on and look at again.

It was determined that Council Members Kipphut and Hodges would work with Lisa and Chief Simmons on the review.

7.3. Discussion regarding personnel policy updates for consideration of approval at a future meeting.

City Administrator stated these updates are presented today just for review and then bring back to Council at a later date. The policy was updated when the City created the fire department. Now that its been in existence for about a year, we have a little better understanding about some tweaks that need to be made. A lot of it is just some things that came up over the year and just needed clarification. Probably 90% of it is just clarification. The real substance change is to the paid time off. When we hired the fire fighters, we gave them the same accrual rate for vacation, basically paid time off. They should actually be accruing at a greater rate appropriate to the hours worked. We also capped the maximum accrual of two times the annual hours that people will accrue.

City Administrator Palomba suggested they take a couple of weeks to look this over and at the next meeting she'll bring it back for further action. In the meantime, if you have questions or you have a suggestion or anything that you think needs to be changed or addressed, just let me know.

7.4. Discussion and action regarding establishing a Little Free Library on City Hall property and coordination of a book drive

Council Member Kipphut introduced this item. She stated that they have had several citizens approach them to see if a Little Free Library could be placed at City Hall in conjunction with the Big Event. She has talked to someone who is willing to build the library for us and then it will be an actual Big Event project to install. We'll be working with Lisa to determine the exact location on property to do that.

Council Member Hodges stated he had done some research on the topic. It is being done all over the country.

Council gave staff direction to move forward with this project.

7.5. Discussion and possible action regarding exclusivity of non-emergency medical transfers to Rockwall EMS.

Council Member Bloom introduced this item. He explained this is actually a request from the Mayor of Rockwall, Mayor Pruitt, as a part of the Emergency Services Corporation board meeting. Essentially what Rockwall EMS is asking for is exclusivity for non-emergency transfers out of hospitals. I'm a proponent of this for a couple of reasons. One, we have very tight restrictions or guidelines and criteria that Rockwall EMS has to meet every month. They provide reports regarding personnel, equipment, incidence, response times, everything they do. Number two, others who are able to do non-emergency transfers don't have to hold to any of those criteria. It does provide

revenue for Rockwall EMS which in turn helps the citizens for the maximum allowable billable rate for Rockwall EMS.

General discussion was held among Council Members with several questions being asked and some concerns stated. Mayor Short stated he would like to have some answers and this be considered at the next Council meeting. It was suggested that a representative of EMS be present to address some of the concerns.

7.6. Discussion and action regarding a proposal from Teague Nall and Perkins, Inc. to provide engineering design services for a sanitary sewer line on Highway 205.

City Administrator Palomba gave a brief background on this item. As the Council knows, Sonoma Verde is the only subdivision with sanitary sewer. From time to time, we will get inquiries from developers interested in developing along 205, especially around the corner of 205 and 550. The existing gas station and restaurant are on a septic system. I think that corner will always stay commercial because there's already commercial there. So, I've asked Chris Cuny of this company to develop a proposal for engineering design services. I think this would be an opportunity for us to pay for the engineering and as construction happens, whether it's sooner or later, some of those costs could be charged back to the developers. We would be out the money up front, but this would be our contribution to start with.

Chris Cuny, a principal with Teague Nall and Perkins, Inc., was present to present his proposal for these services. What we are proposing to offer for you is to basically look at the options and come up with a wastewater plan to serve the areas along 205 which is where your commercial activity is and go as far as we can which basically would be about to the Baptist Church and go to Brushy Creek just past the Sonic. We would look at both sides of 205 in the event you were wanting to pick that up. We've come up with costs on what that would cost to do it and we'd come up with a phase plan and they you can bite off and do whatever you want to do at whatever time you want to do it. Or, you could have that master plan and have the developers actually build that plan at their cost. Our proposal is really a two-prong approach that was the overall wastewater design for the commercial properties. There are really two different routes that we can take.

The fee would be half to do the master plan and then the other half would be to do a phase one which would actually be plans that you could build to serve the existing corner that you have now at 550 and 205.

MOTION: APPROVE THE PROPOSAL FROM TEAGUE NALL AND PERKINS, INC TO PROVIDE ENGINEERING DESIGN SERVICES FOR A SANITARY SEWER LINE ON HIGHWAY 205.

DRAFT

MADE BY: Council Member Bloom
SECONDED BY: Council Member Woessner
APPROVED: Unanimously

8. EXECUTIVE SESSION

- 8.1. Recess into Executive Session (Closed Meeting) in accordance with Texas Government Code: Section 551:071(2) Consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter regarding current status of contracts and performance of professional consultants which may include City Engineer, City Planner, City Attorney, Building Official, Financial Adviser, and Environmental Health Specialist.**
- 8.2. Recess into Executive Session (Closed Meeting) in accordance with Texas Government Code: Section 551.072(2) to deliberate the purchase, exchange, lease, or value of the real property described as Lot 2, Block 1 and Lot 3, Block 1 situated in the King Latham Survey, Abstract No. 133, a total of 6.98 acres, Conveyance Plat for SH 205/550 Addition, located at the southwest corner of SH 205.559.**
- 8.3. Recess into Executive Session (Closed Meeting) in accordance with Texas Government Code: Section 551:071(2) Consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter regarding proposal for engineering design and services for a sanitary sewer line on Highway 205.**

Mayor Short recessed the regular meeting into Executive Session at 7:46 p.m.

9 RECONVENE REGULAR MEETING

Mayor Short reconvened the regular meeting at 8:44 p.m.

10. EXECUTIVE SESSION ACTION

- 8.1. Recess into Executive Session (Closed Meeting) in accordance with Texas Government Code: Section 551:071(2) Consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter regarding current status of contracts and performance of professional consultants which may include City Engineer, City**

Planner, City Attorney, Building Official, Financial Adviser, and Environmental Health Specialist.

MOTION: GIVE THE CITY ENGINEER THIRTY DAY NOTICE OF CONTRACT TERMINATION.

**MADE BY: Council Member Hodges
SECONDED BY: Council Member Bloom
APPROVED: Unanimously**

MOTION: GIVE THE CITY PLANNER THIRTY DAY NOTICE OF CONTRACT TERMINATION.

**MADE BY: Council Member Hodges
SECONDED BY: Council Member Kipphut
APPROVED: Unanimously**

Mayor Short gave direction to the City Administrator to advertise RFQs for the City Engineer and City Planner as soon as possible.

- 8.2. **Recess into Executive Session (Closed Meeting) in accordance with Texas Government Code: Section 551.072(2) to deliberate the purchase, exchange, lease, or value of the real property described as Lot 2, Block 1 and Lot 3, Block 1 situated in the King Latham Survey, Abstract No. 133, a total of 6.98 acres, Conveyance Plat for SH 205/550 Addition, located at the southwest corner of SH 205.559.**

No Action

- 8.3. **Recess into Executive Session (Closed Meeting) in accordance with Texas Government Code: Section 551:071(2) Consultation with City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter regarding proposal for engineering design and services for a sanitary sewer line on Highway 205.**

No Action

11. REPORTS

- 11.1. **Building Official Report January 2020** - Council Member Kipphut if she was reading this report correctly and understands that building permits have doubled since January 2019. City Administrator Palomba confirmed this is correct.

11.2. Sheriff's Report January 2020 - None

11.3 Budget Report January 2020 – Council Member Kipphut asked about the funds received from FEC. City Administrator explained this is their franchise fee that is paid every year.

11.4. McLendon-Chisholm Fire Rescue Report January 2020 - None

11.5. CWD Report January 2020 – Mayor Short thanked Council for their response to a complaint presented on social media.

12. UPDATES, DISCUSSION AND DIRECTION TO STAFF - None

13. COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

13.1. Mayor Short's Reports and announcements – reminded Council that Spring Break is coming up, so please be careful and watch for the kids. Reminded the Council of the special meeting on March 4th.

13.2. Council Member Kipphut's reports and announcements - Council Member Kipphut, along with Council Member Woessner, attended the Rockwall County Day in Austin. It was very informative.

13.3. Council Member Hodges' reports and announcements - Reminded everyone that early voting is currently being held with the General Election coming up on March 3. Reiterated the Big Event coming up and the Free Little Library project.

13.4. Council Member Woessner's reports and announcements - None

13.5. Mayor Pro Tem Bloom's reports and announcements – EDC Resolution passed and we will be moving forward.

13.6. Council Member Dahl's reports and announcements – Anyone interested in applying for EDC, please submit your application.

14. ADJOURN

There being no further business to discuss, Mayor Short adjourned the meeting at 9:00 p.m.

ATTEST:

APPROVED:

Shelly Green, City Secretary

Keith Short, Mayor



CITY COUNCIL MEETING
City of McLendon-Chisholm, Texas
Meeting Minutes
March 4, 2020

The City Council of the City of McLendon-Chisholm convened in Special Session on Wednesday, March 4, 2020, at City Hall, 1371 West FM 550, McLendon-Chisholm, Texas, with the following members present:

ATTENDING:	Keith Short	Mayor
	Nathan Hodges	Council Member
	Lorna Kipphut	Council Member
	William Dahl	Council Member
	Trudy Woessner	Council Member
ABSENT:	Jim Bloom	Mayor Pro-Tem
Staff Present:	Lisa Palomba	City Administrator

1. CALL TO ORDER

Mayor Short called the meeting to order at 6:30.

2. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS

Council Member Hodges delivered the Invocation and Mayor Short led the Pledge of Allegiance to the U.S. and Texas Flags.

3. RULES OF DECORUM

Mayor Short announced the Rules of Decorum are in place and are to be observed throughout the meeting.

4. CITIZEN COMMENTS

None

5. ITEMS TO CONSIDER

- 5.1. Public Hearing to consider public comment for or against enacting a temporary moratorium on residential and commercial development in the City of McLendon-Chisholm's Extraterritorial Jurisdiction**

City Administrator Palomba provided some background information on this item. On February 11, Council considered the moratorium and directed staff to move forward in scheduling the required public hearings. A public hearing was held on February 27th during the Planning & Zoning Commission meeting. The Commission voted 5-0 in favor of recommending that the Council approve the moratorium ordinance so tonight is the second required public hearing to receive comments either for or against enacting a temporary moratorium on residential and commercial development in the City of McLendon-Chisholm's ETJ. This will not affect the City, just the ETJ. There are a couple of exceptions to that moratorium so any projects previously approved, in progress, or small projects that don't require infrastructure, those would be exceptions.

Mayor Short opened the public hearing at 6:33 p.m.

No Speakers

Mayor Short closed the public hearing at 6:33 p.m.

5.2. Discussion and consideration of an Ordinance enacting a temporary moratorium on residential and commercial development in the City of McLendon-Chisholm's Extraterritorial Jurisdiction

Mayor Short presented the first reading of the Ordinance enacting a temporary moratorium on residential and commercial development in the City of McLendon-Chisholm's Extraterritorial Jurisdiction.

AN ORDINANCE OF THE CITY COUNCIL OF MCLENDON-CHISHOLM, TEXAS, ADOPTING AND ENACTING A TEMPORARY MORATORIUM TO SUSPEND THE ACCEPTANCE OF PERMITS, SUBDIVISION PLAT APPLICATIONS, AUTHORIZATIONS AND APPROVALS NECESSARY FOR THE SUBDIVISION, DEVELOPMENT OF OR CONSTRUCTION OF REAL PROPERTY WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION; PROVIDING FINDINGS OF FACT; PROVIDING EXEMPTIONS; PROVIDING A WAIVER PROCEDURE; PROVIDING A TERMINATION DATE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

MOTION: APPROVE AN ORDINANCE ENACTING A TEMPORARY MORATORIUM ON RESIDENTIAL AND COMMERCIAL DEVELOPMENT IN THE CITY OF MCLENDON-CHIHSOLM'S EXTRATERITORIAL JURISDICTION.

MADE BY: Council Member Hodges

SECONDED BY: Council Member Dahl

APPROVAL: Unanimously by Members Present (Bloom Absent)

6. ADJOURN

There being no further business to discuss, Mayor Short adjourned the meeting at 6:34 p.m.

ATTEST:

APPROVED:

Lisa Palomba, City Administrator

Keith Short, Mayor

DRAFT



CITY COUNCIL - CITY OF MCLENDON-CHISHOLM, TEXAS

DATE: March 10, 2020

APPLICANT: MFS Group, LLC - Muhammed Polani
2357 Jupiter Road
Plano TX 75074

LOCATION: 5763 South State Highway 205

ZONING: GB General Business

REQUEST:

The applicant requests approval of a Planned Development District for GB General Business uses and a Conceptual Plan

PROPERTY OWNER: MFS Group, LLC
3645 Capstone Lane
Plano TX 75074

REPRESENTATIVE: Muhammed Polani

PLANNING & ZONING COMMISSION RECOMMENDATION: The Planning and Zoning Commission, by a vote of 4 to 1, recommended approval of the proposed request per staff recommendation.

STAFF RECOMMENDATION: APPROVAL, subject to the attached PD Conditions and revised Conceptual Plan.

BACKGROUND INFORMATION:

The request site is located at the corner of State Highway 205 and FM 550. It is located at the southwest corner of the intersection. The site is approximately 1.5 acres with approximately 230 feet of frontage on SH 205 and approximately 250 feet of frontage on FM 550.

The site and surrounding area are zoned GB General Business. The purpose of the GB District is to provide for a wide range of retail and service establishments for the community. The existing GB District allows a maximum height of 35 feet and a maximum lot coverage of 35%. These two development standards are limiting factors, along with provisions of the Zoning Ordinance under

the Commercial development standards which limits the overall size of any development. Under the existing GB District the maximum footprint of all buildings would be approximately 22,800 square feet. Current GB zoning would limit any one building to a maximum floor area for a single floor to 6,000 square feet however with a maximum height 35 feet, a two-story building could be erected bringing the likely maximum floor area of a single building (under the existing GB zoning) to 12,000 square feet. As mentioned earlier the maximum lot coverage (building footprint) for the site is approximately 22,800 square feet, thus with a two-story building the maximum floor area allowed on the site would be approximately 45,600 square feet. It is highly unlikely the site could be developed with anywhere near that much floor area because parking would have to accommodate that much building area.

Recent State Law changes, effective September 1, 2019, have precluded the City from enforcing certain provisions the Zoning Ordinance has it pertains to required exterior building materials. The City cannot dictate materials over and above the minimum standards required by the International Building Code (IBC). This basically means requiring masonry or other similar building materials if the IBC allows other materials which would meet minimum building code standards. How that is to be handled will be discussed later in this material. Other provisions of the Zoning Ordinance contained in the Commercial development standards can still be required. These include building articulation, building form, roof type (not material), architectural features and floor area and building size.

The request site is an important development site within the City and careful consideration should be given to any development on the site. The proposed PD for limited GB District uses along with the staff proposed conditions will help to protect the importance of this site and allow the development of a new and needed retail site. The requested PD will be conceptual in nature at this time and will require the developer to return to both the P&Z and City Council for approval of a Development Plan and Elevations prior to the issuance of a building permit. Part of the development process for the site includes the developer bringing sanitary sewer to the site. The developer is currently working with the City on a Development Agreement for both the required infrastructure improvements and development standards which will satisfy the architectural standards which the State no longer allows the City to enforce. Although this Development Agreement is not part of the zoning request, and should not be considered in making a decision on the request, it will play an important part of developing the site.

The staff proposed PD conditions (attached) would prohibit certain existing GB District uses which might not be appropriate for this intersection or this small of a site. With the developer proposing a small retail/office center with a possible restaurant use many uses are not appropriate. The PD would also modify the restaurant uses in order to limit size and require some outdoor seating area. This provision was inserted in order to discourage a large fast food drive-thru restaurant and to encourage the likelihood of a smaller sit-down restaurant with some outside seating. This is further encouraged by limiting the amount of parking required for outdoor covered seating for the first 200 square feet of area.

The existing Commercial development standards are also proposed to be modified in order to develop a small retail/office center. The maximum floor area for a single building has been increased to 12,000 square feet but no single tenant maybe over 5,000 square feet; this would

preclude a large single tenant building, by reference a stand-alone drug store is in the 6,000 square foot range. The maximum length of any wall would be increased to 200 feet. As mentioned earlier the exterior façade material portion of the standards has for the most part been eliminated (as required by State law). The off-street parking requirements have been modified in order to limit the rows of parking between the building and the street, this will eliminate the possibility of a 'sea' of parking.

Finally, since the applicant has submitted the request as a Conceptual PD, staff is in agreement with this portion of the request, a Development Plan and Elevations, as required by the Zoning Ordinance, will have to be approved at a later date. The PD modifies those requirements to include the P&Z in that process by reviewing and making a recommendation to the City Council.

UPDATED INFORMATION: The City Council on January 28 heard this request and after receiving new and additional information from the applicant voted to remand the request back to the Planning and Zoning Commission in order for that body to review the information and make a recommendation based on the additional information.

The applicant (after the previous P&Z hearing), submitted an updated Concept Plan which better defines the location of the proposed structures on the site and reduced the maximum allowed for a single floor for any structure on the site from 12,000 square feet to 11,000 square feet. The applicant has also provided a set of illustrative drawings of how the site would look developed. Note these drawings are for illustration purposes only and are not a portion of the material that would be approved at this time.

If the zoning is approved by the City Council in accordance with the staff recommendation, the applicant would be required to bring back to the P&Z and City Council detailed Development Plans and Elevations that would have to meet both the PD requirements and the other requirements contained in the zoning ordinance. That process would require one hearing each at the P&Z and City Council but would not require notice in the local newspaper or written notice to area property owners. Both hearings would be posted and allow citizen input.

COMPREHENSIVE PLAN: The Future Land Use Map of the Comprehensive Plan (see attached) recommends Commercial uses for this Site. The requested Plans comply with the Comprehensive Plan.

STAFF RECOMMENDATION: APPROVAL, subject to the attached PD Conditions and revised Conceptual Plan.

The proposed new PD for modified GB District uses and development standards and Conceptual Plan will allow the development of the site and provide protections to help ensure a quality development on this important site.

PROPOSED PD CONDITIONS Zoning Case Z2019-03

PD FOR GB GENERAL BUSINESS USES at State Highway 205 and FM 550

USES: Those uses allowed in a GB General Business District with the following uses prohibited or restricted:

Amusement center, indoor (S)
Veterinarian office, large animal practice (S)
Auto repair garage
Auto sales, new and used
Auto service station
Farm machinery and implement sales and service
Motorcycle sales
Ambulance service
Auction house, indoor
Building material sales/lumber yard
Contractor, no outside storage permitted
Contractor outside storage, permitted
Contractor storage or equipment yard
Cosmetic tattoo establishment
Extended-stay hotel/motel
Exterminating service
Factory outlet, retail or wholesale store
Hotel or motel
Kennel
Landscape Service
Laundry, self service
Pawn shop
Mini-warehouse
Cargo container

The following uses are modified:

Restaurant, drive-in/drive-thru (allowed by right); limited to one with a maximum floor area of 3,000 square feet and include a minimum of 200 square feet of outdoor seating area,
Restaurant, with or without alcohol sales (allowed by right), must include a minimum of 200 square feet of outdoor seating area.

Density, area, yard, height and lot coverage requirements: Per GB District

Off-street parking and loading requirements: Off-street parking and loading requirements shall conform to the provisions of Section 6-7. Off-street parking and loading requirements, with the following exception. Covered seating in association with an allowed restaurant use does not require parking for the first 200 square feet of area; any additional covered seating must be parked per the requirements for a restaurant use.

Landscaping. Per GB District requirements.

Screening and buffering requirements. Per GB District requirements.

Masonry requirement. This provision does not apply in this PD.

Commercial Development Standards.

Any development on the Property must comply with Section 4-13 Commercial development standards of the Zoning ordinance with the following exceptions:

E. Building form. 1. The minimum area of a single floor shall be 2,500 sf. The maximum area allowed for a single floor shall be 12,000 sf, no single tenant may exceed 5,000 sf. The maximum length for any building wall shall be 200 ft. No single tenant may exceed 5,000 square feet in either a larger building or a stand-alone building.

G. External façade materials. Does not apply except as noted below:

1. Windows and glazing shall be a maximum of 30% of each building elevation.

K. Off-street parking and loading requirements.

2. No more than three (3) rows of angled or parallel parking shall be allowed between the primary building and the street right-of-way.

Development plan and elevations. A development plan that complies with Section 5.1D.2. must be submitted to and recommended by the Planning and Zoning Commission and approved by the City Council prior to the issuance of a building permit. Elevations illustrating compliance with Section 4-13, as modified in this Ordinance, must also be submitted to and recommended by the Planning and Zoning Commission and approved by the City Council prior to the issuance of a building permit.



City of McLendon-Chisholm
1371 West FM 550 - McLendon-Chisholm, Texas 75032
TEL: (972)524-2077 FAX: (972)524-9128

ZONING CHANGE APPLICATION

Date of Application: 12/30/19

Receipt # _____

Fee: \$600 per lot + \$10 per acre (acreage rounded to the next whole acre) + ALL consultant Costs. Consultant costs includes City Planner, City Engineer, Legal Fees and any other outside consultant costs incurred by the City.

Address and/or Location of Request:

Hwy 205 / FM 550

Property Legal Description: BLOCK 1 LOT 1 at Hwy 205/550 FM

County Parcel ID: _____

Existing Zoning: NEIGHBORHOOD BUSINESSES Requested Zoning: RETAIL/RESTURANT

Applicant's Name: MFS GROUP LLC MUHAMMED POLANI

Phone No. 214 334-8165 Email: POLANIMI@MSN.COM

Status of Applicant: Owner ☒ or Authorized Agent _____

Applicant's Address:

2357 JUPITER RD PLANO TX 75074

Owner's Address: 3645 CAPSTONE LANE PLANO TX 75074

I certify that I am the owner of the property described in this petition/application and _____ is the authorized agent to file this application on my behalf.

Signature of Owner:

[Signature] Date 12/30/19

Signature of Applicant:

Date _____

Page 1 of 2

10/09/2017 Zoning Change Application and Checklist

Development Fees

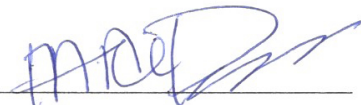
The City recognizes that professional guidance is necessary when undertaking any land use project including platting, zoning or Board of Adjustment applications. Therefore, the City will provide a one-hour or 2 one-half hour complimentary professional consultation with the City Planner and/or City Engineer. These complimentary consultation(s) will be arranged by City Staff. Limit of one complimentary consultation per property.

The applicant must pay the actual fee (very small & simple projects) or deposit the estimated fee with the City prior to the consultants beginning work on their application. Should the actual consultant cost exceed the estimate, the applicant will be required to deposit additional monies with the City before work on their application continues. Unused deposit monies will be refunded to applicant within 60 days of project conclusion.

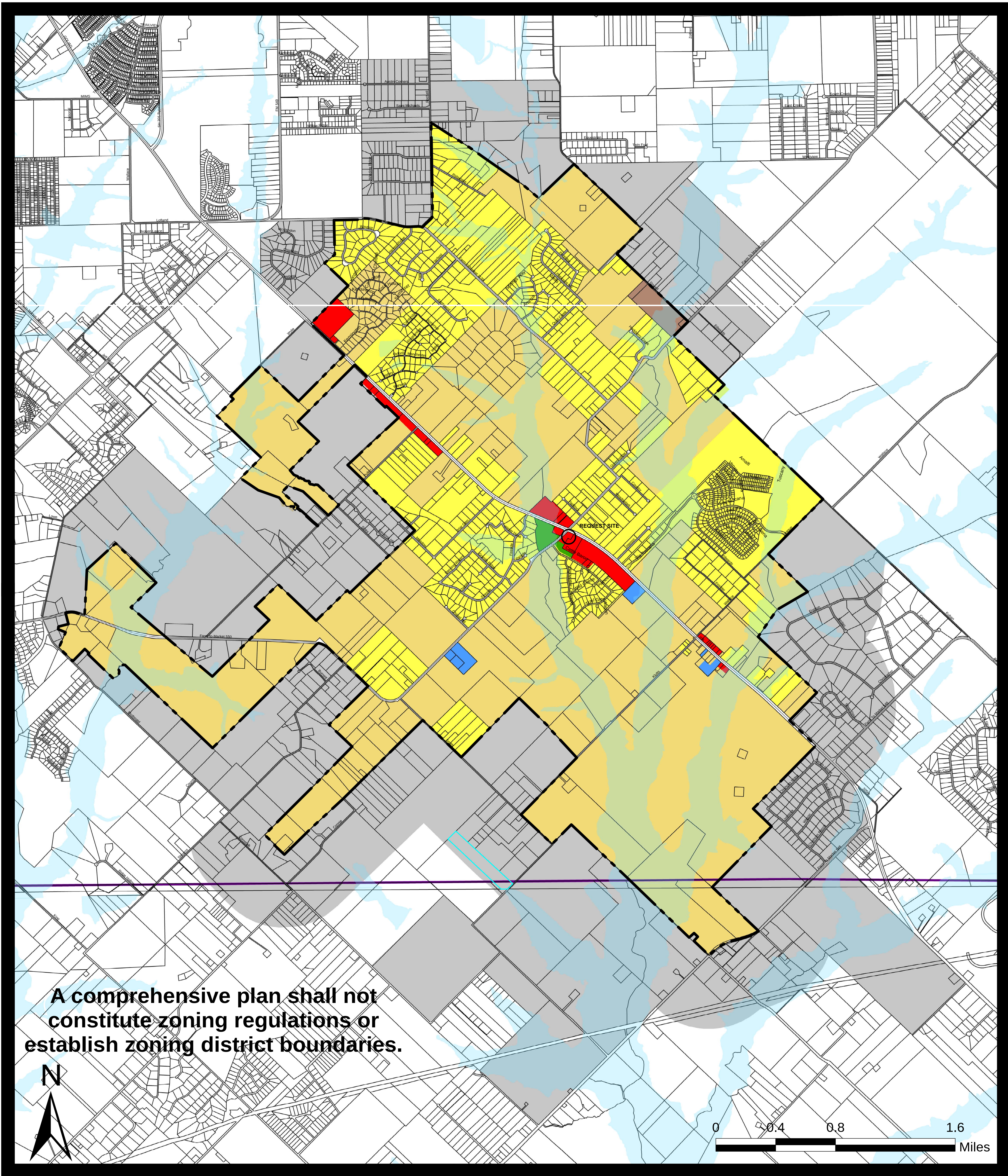
ALL Consulting Costs - Includes City Planning, City Engineer, Legal Fees and any other outside Consultant costs incurred by the City. All outstanding fees must be paid by the applicant prior to their application being placed on the agenda of the Planning & Zoning Commission, City Council or BOA, nor will building permits be issued with fees outstanding.

I hereby certify that I am the owner, or duly authorized agent of the owner, for the purpose of this application. All information submitted herein is true and correct and the application fee of \$ 600.00 to cover the cost of this application, has been paid to the City of McLendon-Chisholm on this _____ day of _____, 201__.

Further, I hereby certify that I understand and agree to the development and consulting fees and costs as stated above and agree to pay all outstanding fees and costs to the City prior to the application being placed on the agenda for consideration by the Planning & Zoning Commission and/or City Council.

Signature of Applicant (Owner/Authorized Agent): 
City Secretary: _____

(Seal)



Legend

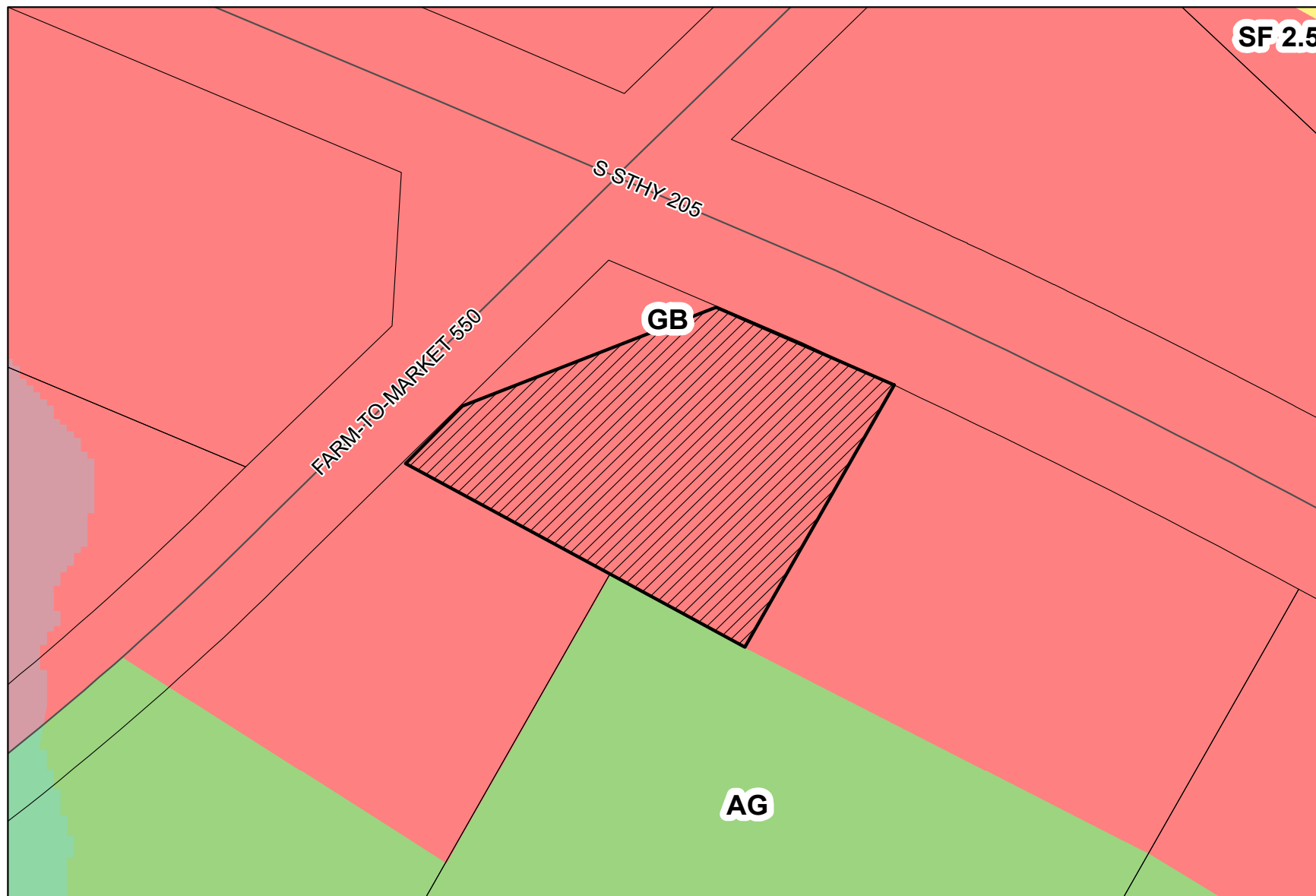
	McLendon-Chisholm City Limits		Agriculture		Institutional
	McLendon-Chisholm ETJ		Low Density Residential		Commercial
	County Line		Rural Residential		
	Floodplain		Multifamily		

City of McLendon-Chisholm Rockwall & Kaufman County Future Land Use Map December 2017



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. (Texas Government Code § 2051.102)

This map was created using Rockwall and Kaufman County GIS data and FEMA GIS data.



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. (Texas Government Code § 2051.102)

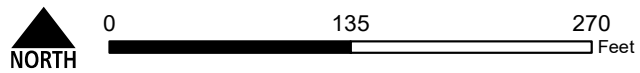


Zoning Map
Z 2019-03

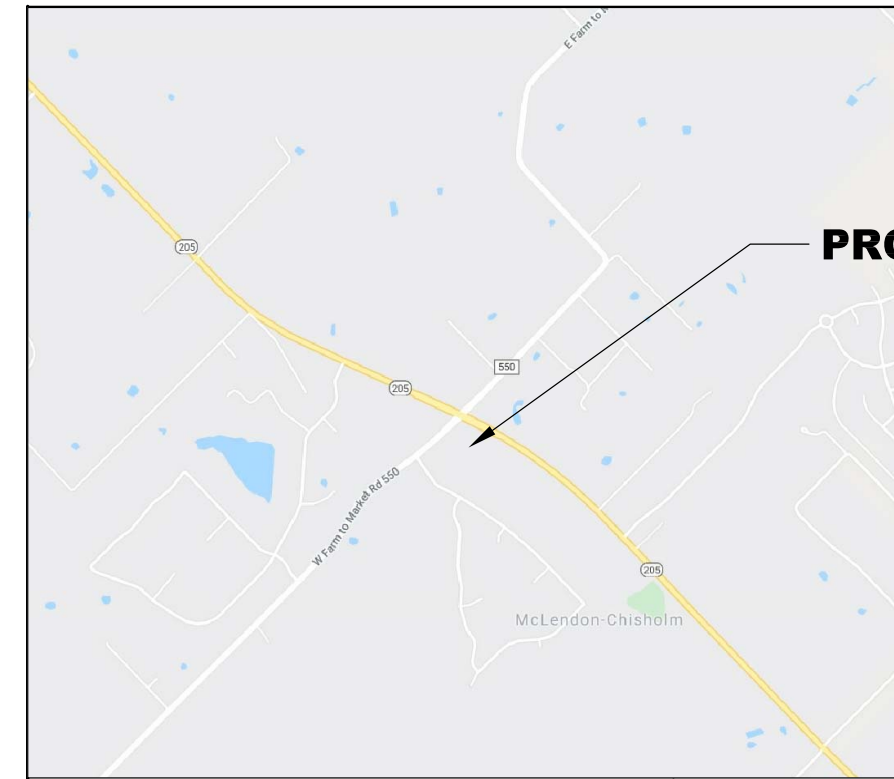


Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

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. (Texas Government Code § 2051.102)



Aerial
Z 2019-03



VICINITY MAP

PROJECT LOCATION

F.M. NO. 550
(CALLED 80' R.O.W.)

S.H. NO. 205
(CALLED 120' R.O.W.)

LOT 1, BLOCK 1
65,571 SF
1.505 AC
SH 205/550 ADDITION
INSTRUMENT NUMBER
20190000009311
O.P.R.R.C.T.

LOT 2, BLOCK 1
SH 205/550 ADDITION
INSTRUMENT NUMBER
20190000009311
O.P.R.R.C.T.

TO BROOKSHIRE
GROCERY COMPANY
ACCESS EASEMENT
VOLUME 5270, PAGE 63
D.R.R.C.T.

BROOKSHIRE GROCERY COMPANY
VOLUME 5270, PAGE 57
D.R.R.C.T.

PREVIOUS

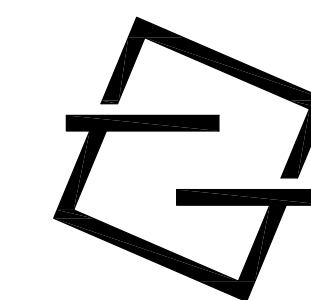
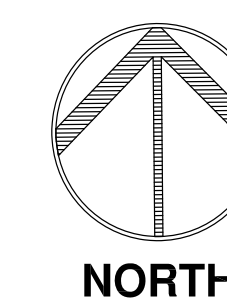
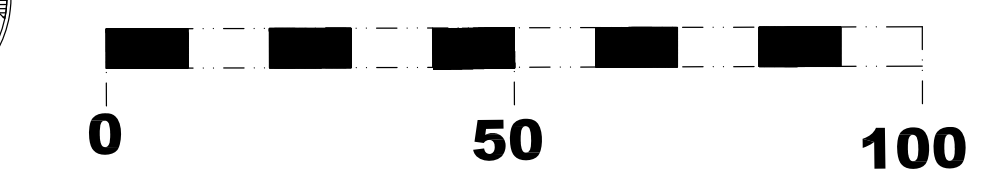
DATA

ZONING:	PD for General Business Uses
Land Area:	1.505 acres
Allowed uses:	See PD Ordinance
Maximum height:	Per GB District
Maximum Lot Coverage:	Per GB District
Maximum Floor Area:	See PD Ordinance
Setbacks:	Per Conceptual Plan
Parking:	Per Zoning Ordinance

*** APPROXIMATE LOCATION
OF FUTURE ACCESS**

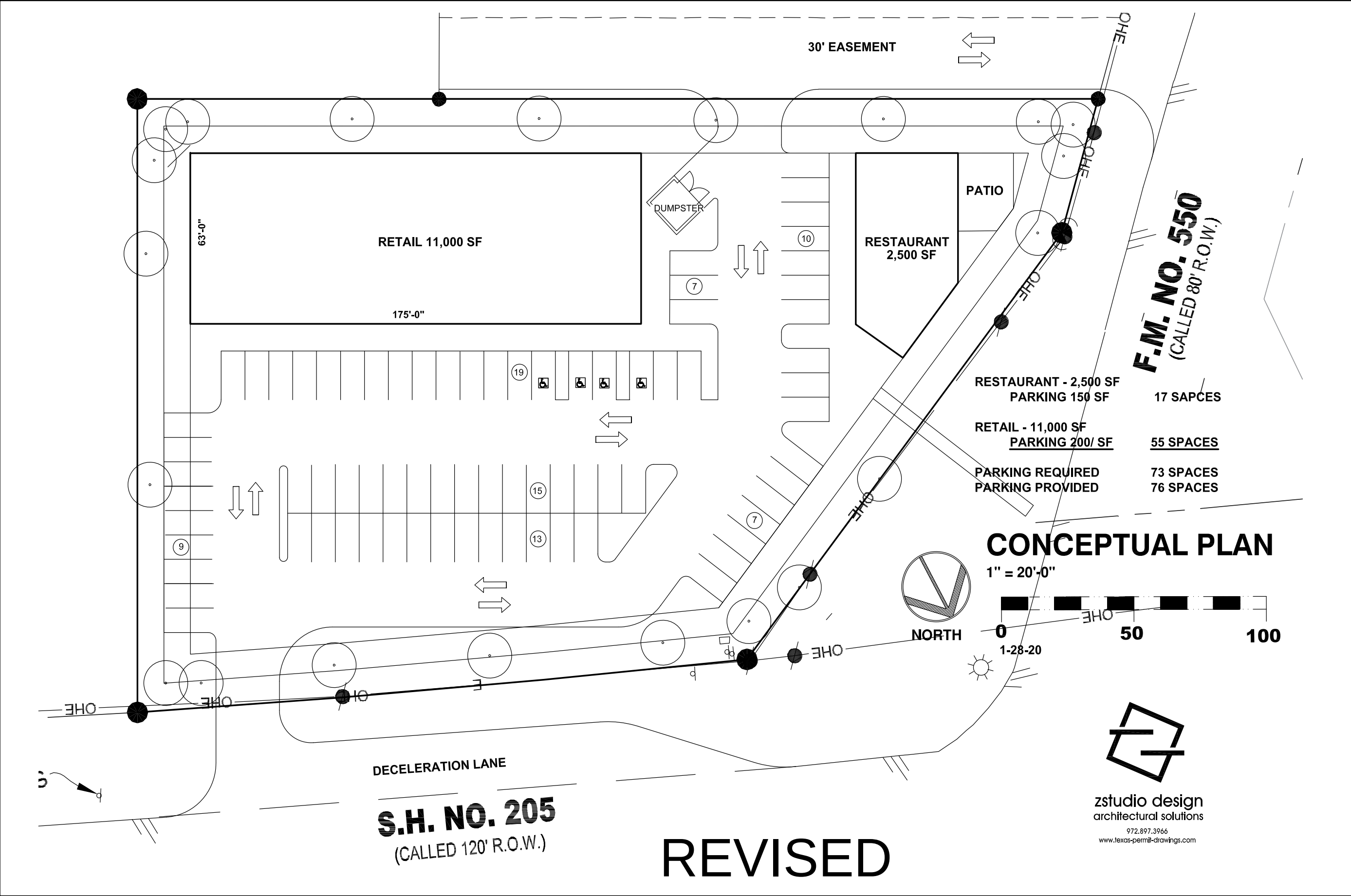
CONCEPTUAL PLAN

1" = 20'-0"



zstudio design
architectural solutions
972.897.3966
www.texas-permit-drawings.com

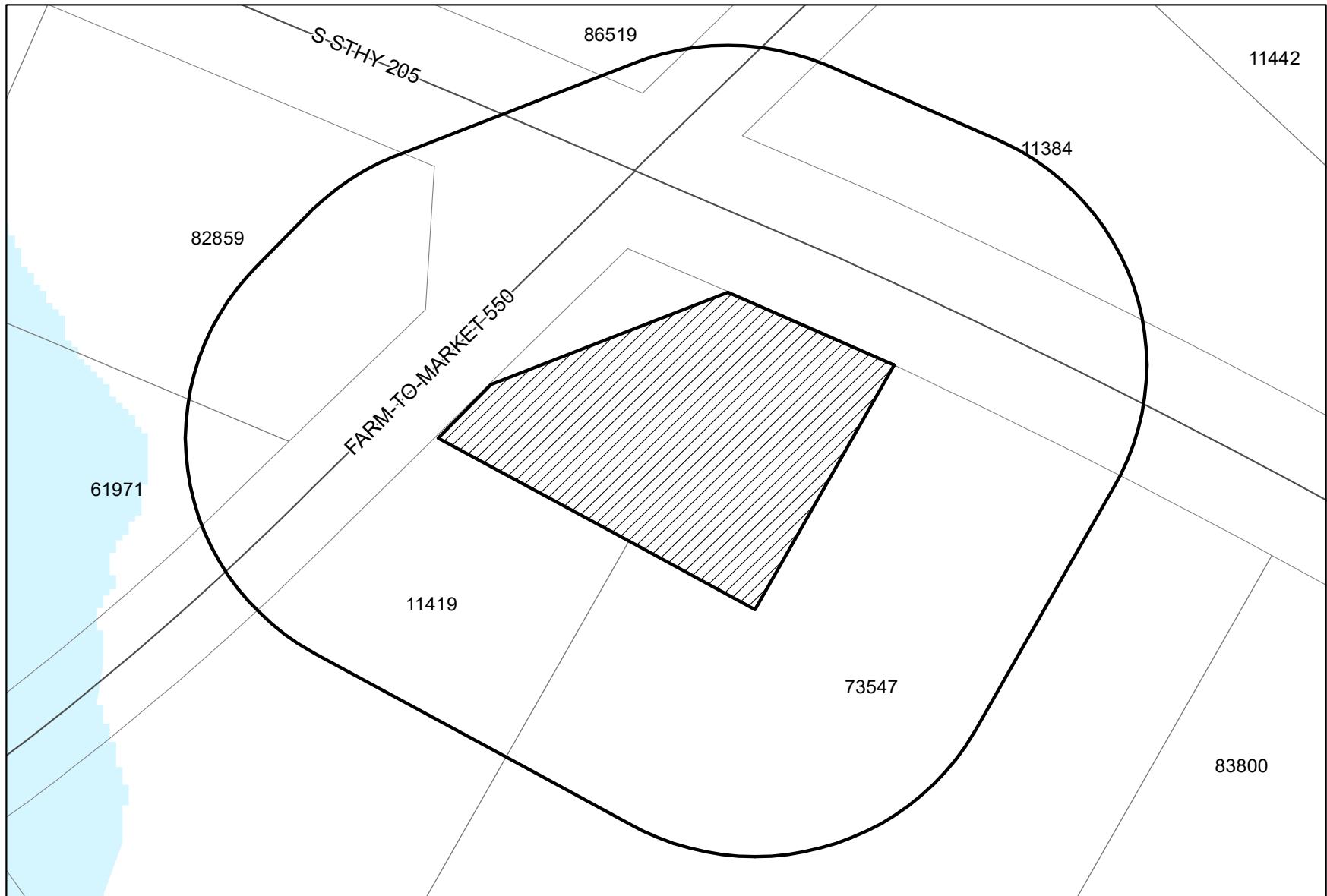
1-6-20



REVISED



South view from W Farm to Market Rd 550 and State Hwy 205 corner (VACANT)



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200 Foot Norification
Z 2019-03

Parcel ID	Owner Name	Address
11419	MIL/WAY INVESTORS LLC	PO BOX 717 ROCKWALL, TX 75087-0717
11384	HOLT V R & BETTY REV LIVING TRUST	V R & BETTY HOLT TRUSTEES 141 S STATE HIGHWAY 205 ROCKWALL, TX 75032-6947 PO BOX 369
61971	MARIAH BAY DEVELOPMENT INC	ROCKWALL, TX 75087-0369
73547	BROOKSHIRE GROCERY CO	ATTN: REAL ESTATE DEPT 1600 W SOUTHWEST LOOP 323 TYLER, TX 75701-8532
82859	GROUP PACIFIC HOLDINGS LLC	6711 STARBUCK DR DALLAS, TX 75252-5945
86519	TEAM VAPP LLC	709 CORNELL DRIVE ROCKWALL, TX 75087



**CITY OF MCLENDON-CHISHOLM, TEXAS
NOTICE OF PUBLIC HEARINGS BEFORE THE
PLANNING AND ZONING COMMISSION
AND THE CITY COUNCIL**

Notice of Public Hearings before the McLendon-Chisholm Planning & Zoning Commission and City Council: Notice is hereby given that the Planning & Zoning Commission of the City of McLendon-Chisholm will meet and hold a public hearing at 6:30 p.m. on Thursday, February 27, 2020 at McLendon-Chisholm City Hall, 1371 W. FM 550, McLendon-Chisholm, TX 75032. Further, the City Council of the City of McLendon-Chisholm will hold a public hearing on Tuesday, March 10, 2020 at McLendon-Chisholm City Hall, 1371 W. FM 550, McLendon-Chisholm, TX 75032. At such times and place, the Commission and Council will consider the application of MFS Group, LLC requesting a zoning change from GB General Business to a Planned Development District for GB General Business District uses on a 1.5 acre tract in the King Latham Survey, Rockwall CAD Property ID 101321, generally located south of FM 550 and State Highway 205, McLendon-Chisholm, TX 75032. Citizens are invited to attend and participate in the public hearings. /s/ Rochelle Green, Interim City Secretary.

PROPERTY DESCRIPTION: 1.5 acre tract in the King Latham Survey, Rockwall CAD Property ID 101321, generally located at the SE corner of FM 550 and State Highway 205, McLendon-Chisholm, TX 75032.

Interested citizens are invited to attend this public hearing and participate in the same.

The following may be filled out and returned to McLendon-Chisholm City Hall before the hearing date.

Check one: ☐ I am in favor of the request. ☒ I am opposed to the request.

Reasons: (attach a separate sheet as needed)

Signature:

Name (printed):

Address:

Phone/Email Address (optional):

Mario Gonzalez

MARIO GONZALEZ

120 North Highway 205, McLendon-Chisholm

75032

Please return this form to:

City of McLendon-Chisholm

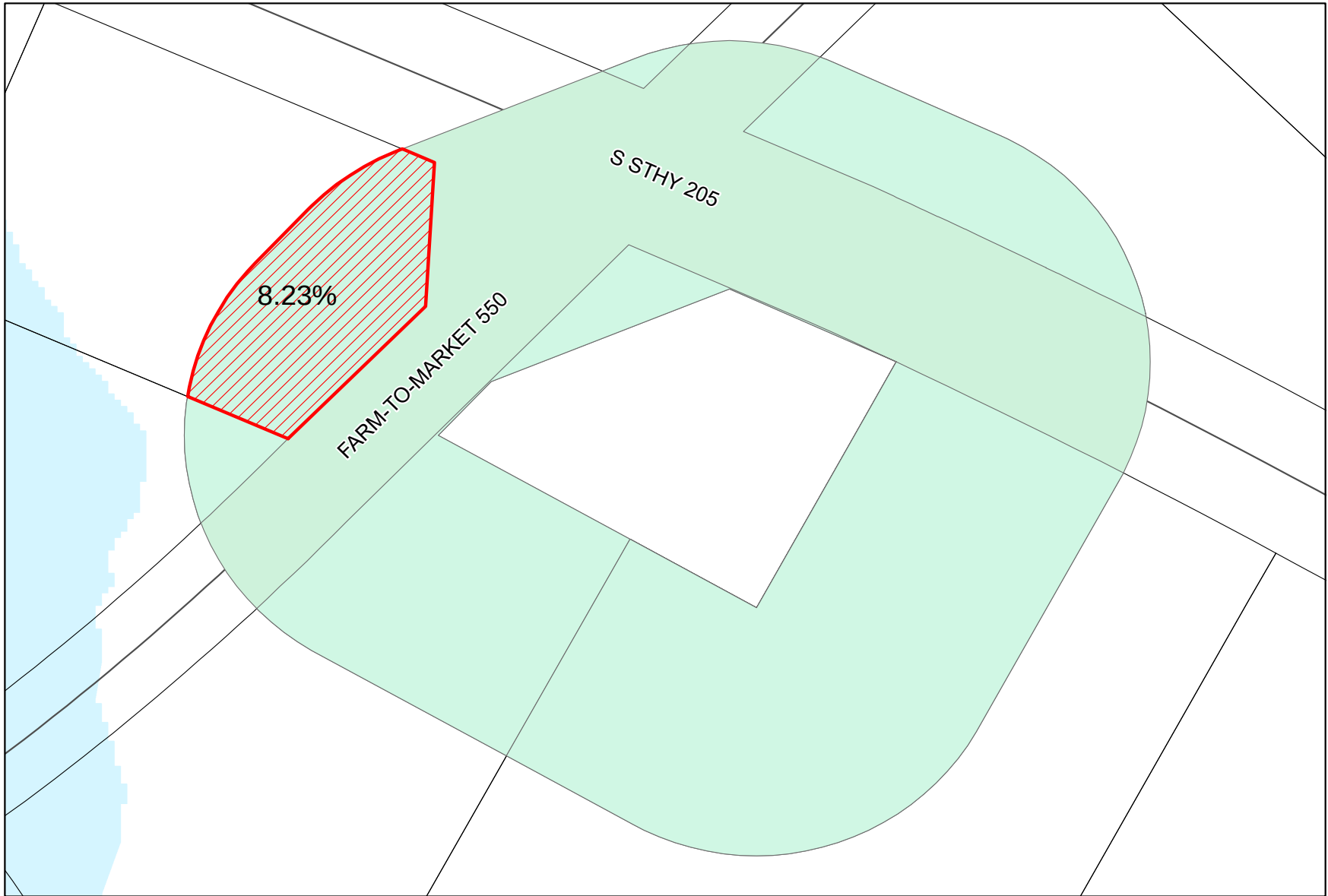
1371 W. FM 550

McLendon-Chisholm, Texas 75032

Thank you,

City of McLendon-Chisholm, Texas

Phone 972-524-2077; fax 972-524-9128; email citysecretary2@McLendon-Chisholm.com

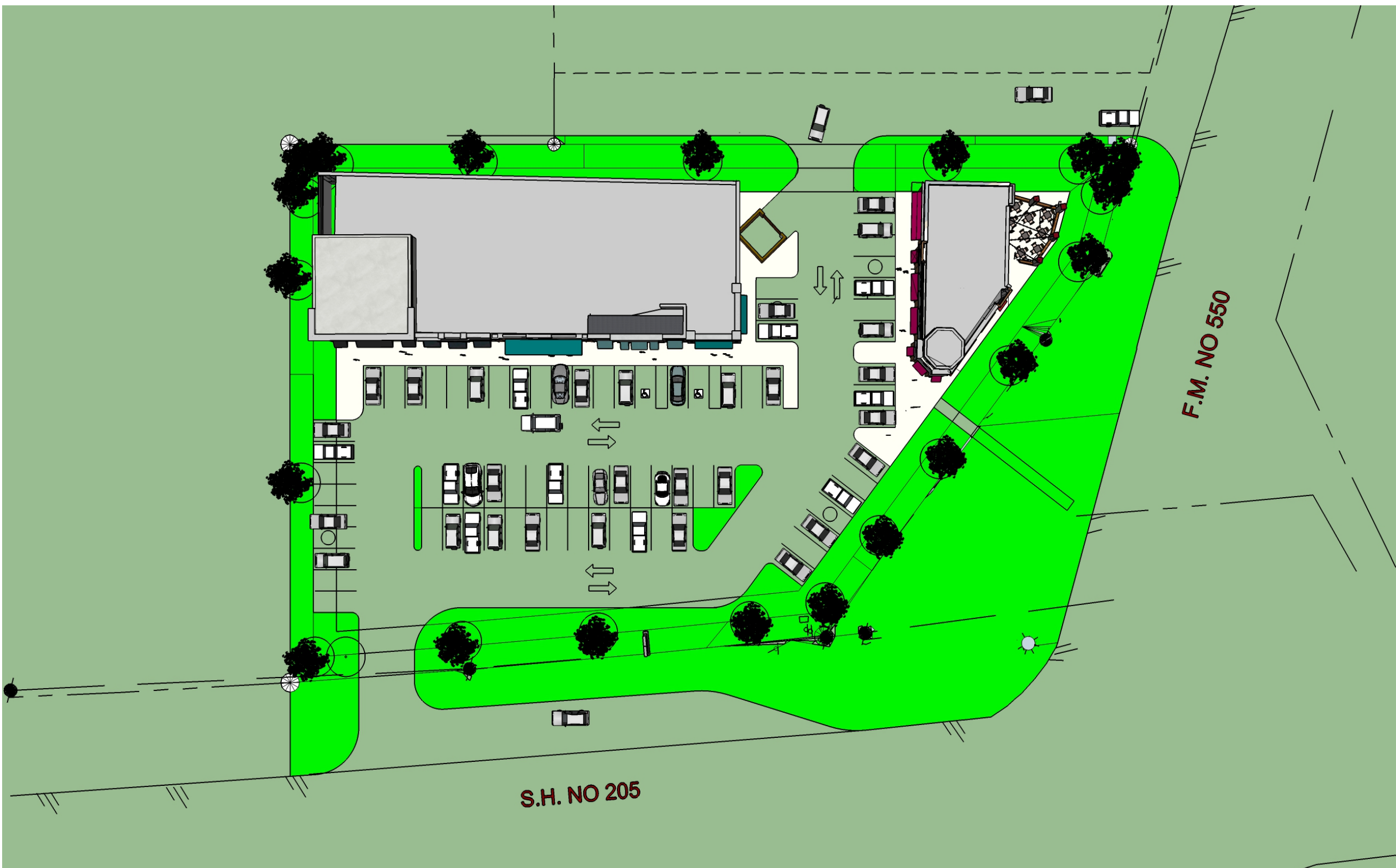


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0 140 280
Feet

**Opposition
Pullen Plat**























ORDINANCE NO. 2020-

AN ORDINANCE OF THE CITY OF McLENDON-CHISHOLM, TEXAS, AMENDING THE ZONING ORDINANCE AND ZONING MAP OF THE CITY OF McLENDON-CHISHOLM, TEXAS, AS HERETOFORE AMENDED, BY GRANTING A CHANGE IN ZONING FROM "GB" GENERAL BUSINESS DISTRICT TO A "PD" PLANNED DEVELOPMENT DISTRICT ON APPROXIMATELY 1.50 ACRE TRACT AT THE SOUTHWEST CORNER STATE HIGHWAY 205 AND F.M. 550 IN THE K. LATHAM SURVEY, ABSTRACT NO. 133, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT 1 ATTACHED HERETO; PROVIDING DEVELOPMENT STANDARDS; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OR FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000) DOLLARS FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a change in zoning from a "GB" General Business District to a "PD" Planned Development District on approximately 1.50 acres (Rockwall County Appraisal District Property ID No. 101321) generally situated on the southwest corner of the intersection of State Highway 205 and F.M. 550 in the K. Latham Survey, Abstract No. 133, McLendon-Chisholm, Texas, Rockwall, as more particularly described in Exhibit 1 attached hereto, has been requested by MFS Group, LLC for the purpose of developing the site for GB General Business District uses; and

WHEREAS, the Planning and Zoning Commission of the City of McLendon-Chisholm, Texas, in compliance with the laws of the State of Texas and the ordinances of the City of McLendon-Chisholm, has given the requisite notice by publication and otherwise, and after holding a required public hearing and affording a full and fair hearing to all property owners generally and to all interested persons interested and situated in the affected area and in the vicinity thereof, recommended to the City Council of the City of McLendon-Chisholm that the request be approved; and

WHEREAS, the City Council of the City of McLendon-Chisholm, as the governing body and in compliance with the laws of the State of Texas and the ordinances of the City of McLendon-Chisholm, has given the requisite notice by publication and otherwise, and after holding a required public hearing and affording a full and fair hearing to all property owners generally and to all interested persons interested and situated in the affected area and in the vicinity thereof, and in the exercise of its legislative discretion, has concluded that the Zoning Ordinance and Zoning Map should be amended as provided herein.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF McLENDON-CHISHOLM, TEXAS:

SECTION 1. The recitals set forth in the WHEREAS clauses of this Ordinance are true and correct, constitute findings and determinations by the City Council acting in its legislative capacity and are incorporated herein.

SECTION 2. The Zoning Ordinance and Zoning Map of the City of McLendon-Chisholm, Texas, heretofore duly passed by the governing body of the City of McLendon-Chisholm, as heretofore amended, be and are hereby amended by granting a change in zoning from a "GB" General Business District to a "PD" Planned Development District on approximately 1.50 acres (Rockwall County Appraisal District Property ID No. 101321) generally situated on the southwest corner of State Highway 205 and F.M. 550 in the K. Latham Survey, Abstract No. 133, McLendon-Chisholm, Texas, Rockwall, as more particularly described in Exhibit 1 attached hereto (the "**Property**"), has been requested by MFS Group, LLC for the purpose of developing the site for GB General Business District uses; and

SECTION 3. That the Development Standards set forth in Exhibit 2 attached hereto and incorporated herein shall be applicable to all land uses, structures, the use and occupancy of all structures, and the development, construction, operation, and maintenance of all improvements on the Property.

SECTION 4. That the Property shall be used only in the manner and for the purposes provided herein and by the ordinances of the City of McLendon-Chisholm, Texas, as heretofore amended, and as amended herein.

SECTION 5. That all provisions of the ordinances of the City of McLendon-Chisholm in conflict with the provisions of this Ordinance as applicable to the Property, to the extent of such conflict, be and the same are hereby repealed and all other provisions of the ordinances of the City of McLendon-Chisholm not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 6. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 7. That any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of McLendon-Chisholm, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 8. That an offense committed before the effective date of this Ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 9. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

*Ordinance No. 2020-
Approved 03/10/2020*

DULY PASSED and APPROVED by the City Council of the City of McLendon-Chisholm, Texas, on the 10th day of March 2020.

APPROVED:

Keith Short, Mayor

ATTEST:

Rochelle Green, City Secretary

*Ordinance No. 2020-
Approved 03/10/2020*

**CITY OF MCLENDON-CHISHOLM
ORDINANCE NO. 2020 –
APPROVED 03/10/2020**

EXHIBIT 1

Metes and Bounds Description of the Property, 1.50 Acre Tract

LEGAL DESCRIPTION

BEING all of Lot 1 in Block 1 of the SH 205/550 Addition, an Addition to the City of McLendon Chisholm, Rockwall County, Texas according to the conveyance plat thereof, recorded in Document No. 20190000009311, Real Estate Records, Rockwall County, Texas.

**CITY OF MCLENDON-CHISHOLM
ORDINANCE NO. 2020 –
APPROVED 03/10/2020**

EXHIBIT 2

DEVELOPMENT STANDARDS

(1) Uses Allowed.

(a) The only uses allowed in this Planned Development District are:

Those uses allowed in the City of McLendon-Chisholm "GB" General Business District as provided in the City's Zoning Ordinance; with the following prohibited/modified uses:

The following uses are prohibited:

Amusement center, indoor (S)
Veterinarian office, large animal practice (S)
Auto repair garage
Auto sales, new and used
Auto service station
Farm machinery and implement sales and service
Motorcycle sales
Ambulance service
Auction house, indoor
Building material sales/lumber yard
Contractor, no outside storage permitted
Contractor outside storage, permitted
Contractor storage or equipment yard
Cosmetic tattoo establishment
Extended-stay hotel/motel
Exterminating service
Factory outlet, retail or wholesale store
Hotel or motel
Kennel
Landscape Service
Laundry, self service
Pawn shop
Mini-warehouse
Cargo container

The following uses are modified:

Restaurant, drive-in/drive-thru (allowed by right); limited to one with a maximum floor area of 2,500 square feet and must include a minimum of 200 square feet of outdoor seating area; Restaurant, with or without alcohol sales (allowed by right), must include a minimum of 200 square feet of outdoor seating area.

(2) **Parking Required.**

- (a) Parking spaces shall conform to the size and shape requirements of the Zoning Ordinance.
- (b) Required parking spaces may be shared between and by all uses on the Property.
- (c) For all "GB" General Business District allowed zoning uses, parking shall be provided in accordance with the requirements of the City of McLendon-Chisholm Zoning Ordinance.
- (d) In addition, covered outside seating in association with an allowed restaurant use does not require parking for the first 200 square feet of area; any additional covered seating must be parked per the requirements for a restaurant use; non-covered outside seating does not require parking.

(3) **Density, area, yard, height and lot coverage requirements:** Per GB General Business District regulations, as amended.

(4) **Screening.** Visual screening shall be provided between commercial buildings and parking areas when adjacent to residential uses. Visual screening shall be a minimum of six feet in height and may be living and irrigated hedge materials or constructed in accordance with Section 6-8 of the McLendon-Chisholm Zoning Ordinance. All dumpsters shall be screened from State Highway 205 and from adjacent residential property by solid screening that complies with the Section 6-8 of the McLendon-Chisholm Zoning Ordinance.

(5) **Development plan and elevations.** A development plan that complies with Section 5.1D.2. must be submitted to and recommended by the Planning and Zoning Commission and approved by the City Council prior to the issuance of a building permit. Elevations illustrating compliance with Section 4-13, as modified in this Ordinance, must also be submitted to and recommended by the Planning and Zoning Commission and approved by the City Council prior to the issuance of a building permit. Development plans must show emergency apparatus/vehicle access roads and turnarounds that conform to the adopted Fire Code.

(6) **Commercial Development Standards.** Any development on the Property must comply with Section 4-13 Commercial development standards of the Zoning ordinance with the following exceptions:

E. Building form. 1. The minimum area of a single floor shall be 2,500 sf. The maximum area allowed for a single floor shall be 12,000 sf, no single tenant may exceed 5,000 sf. The maximum length for any building wall shall be 200 ft. No single tenant may exceed 5,000 square feet in either a larger building or a stand-alone building.

G. External façade materials. Does not apply except as noted below:

Windows and glazing shall be a maximum of 30% of each building elevation.

K. Off-street parking and loading requirements.

2. No more than three (3) rows of angled or parallel parking shall be allowed between the primary building and the street right-of-way.

(7) **Signs.** Signage shall be in accordance with the City's ordinances and sign regulations.

(8) **Landscaping.** Per GB General Business District requirements.

(8) **Other Law.** The development, construction and use of the Property and all structures thereon shall be in compliance with all applicable City, State, and Federal Regulations for inspections, permitting, licensing and building, construction and fire codes, except as modified by this ordinance.

Proposed



City of McLendon-Chisholm

Staff Report

Discussion and action regarding consideration of an Ordinance (2nd Reading) for final approval enacting a temporary moratorium on residential and commercial development in the City of McLendon-Chisholm's Extraterritorial Jurisdiction (Requested by Palomba)

DATE:

March 10, 2020

BACKGROUND OF ISSUE:

Rockwall County Commissioner Dennis Bailey presented information to Council on January 28th explaining the county hired a planning firm to rewrite the County Subdivision Regulations. Bailey further explain that the current regulations are outdated and not compliant with state law. The Interlocal Agreement between McLendon-Chisholm and the County regarding subdivision regulations in the ETJ is also outdated and will need to be updated once the County regulations have been approved in late spring or early summer. Bailey expressed concern regarding building in the ETJ during the interim period. He also informed Council that the City of Rockwall intends to implement a building moratorium in their ETJ.

On February 11th, Council considered the moratorium and directed staff to move forward in scheduling the required public hearings. A public hearing was held on February 27, 2020 during the Planning & Zoning Commission Meeting. The Commission voted 5,0 in favor of recommending that Council approve the moratorium Ordinance.

On March 4, the second public hearing was held to receive comments for or against enacting a temporary moratorium on residential and commercial development in the City of McLendon-Chisholm's Extraterritorial Jurisdiction (ETJ). Council voted 4,0 in favor of approving the ordinance. Mayor Short read the ordinance into the record as required.

Tonight, Council will consider final approval of the ordinance and provide the 2nd required reading of the ordinance.

CONSIDERATIONS:

Implementing a building moratorium in the ETJ will not affect development projects previously approved. Other exceptions include small subdivisions where no infrastructure is required and developments for which there are already existing Development Agreements in place.

There are several steps involved to create an approved building site. The first step is typically zoning but the City does not have zoning authority in the ETJ so a developer may move straight to the platting process for a project. The purpose of platting is to ensure that proper public facilities, infrastructure, drainage and fire protection can be provided to a development and to protect the health, safety and general welfare of residents who will reside in the new development as well as surrounding property owners.

Plat approval is not discretionary, and plats must be approved if they meet all technical requirements and now the state requires that cities consider plats within 30 days. A moratorium would prevent a developer from applying for a plat in the ETJ and possibly getting around any newly proposed County Subdivision Regulations which may be more stringent than current regulations.

The procedure for adopting a moratorium is attached. Public hearings were properly noticed and held.

RECOMMENDATION:

Council may move to approve the Ordinance enacting the moratorium and read the caption into the record.

Lisa Palomba, City Administrator

ORDINANCE NO. 2020-__

AN ORDINANCE OF THE CITY COUNCIL OF MCLENDON-CHISHOLM, TEXAS, ADOPTING AND ENACTING A TEMPORARY MORATORIUM TO SUSPEND THE ACCEPTANCE OF PERMITS, SUBDIVISION PLAT APPLICATIONS, AUTHORIZATIONS AND APPROVALS NECESSARY FOR THE SUBDIVISION, DEVELOPMENT OF OR CONSTRUCTION OF REAL PROPERTY WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION; PROVIDING FINDINGS OF FACT; PROVIDING EXEMPTIONS; PROVIDING A WAIVER PROCEDURE; PROVIDING A TERMINATION DATE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of McLendon-Chisholm (the "City") seeks to provide for the health, safety, and welfare of its residents; and

WHEREAS, the City of McLendon-Chisholm finds that subdivision plats are a necessary mechanism to ensure that proper public facilities, infrastructure, drainage, and fire protection can be provided to support future development within the City's Extraterritorial Jurisdiction (ETJ), and to protect the health, safety, natural environment, quality of life, and general welfare of McLendon-Chisholm residents; and

WHEREAS, in conformance with Chapter 242, of the Texas Local Government Code the City of McLendon-Chisholm is required to enter into an interlocal agreement with Rockwall County regarding the processing and review of subdivision plats in the City of McLendon-Chisholm's Extraterritorial Jurisdiction (ETJ); and

WHEREAS, in order for the City of McLendon-Chisholm and Rockwall County to have adequate and reasonable time to review, evaluate, and revise and approve an interlocal agreement and to consider the impact of the review criteria for subdivision plats on the provision of adequate public facilities, infrastructure, drainage, and fire protection for future developments within the City's Extraterritorial Jurisdiction (ETJ), the City intends on imposing a temporary moratorium lasting for a period of 180 days for commercial property and 120 days for residential property, during which no applications for subdivision plats in the City of McLendon-Chisholm's Extraterritorial Jurisdiction (ETJ) will be accepted; and

WHEREAS, the purpose of prohibiting subdivision plat applications for commercial and residential property in the City's Extraterritorial Jurisdiction (ETJ) during this temporary moratorium is to preserve the status quo, facilitate thoughtful and consistent planning, avoid exploitation of the delays inherent in the municipal legislative process, and prevent applications from undermining the effectiveness of the forthcoming review criteria by submitting a subdivision plat to avoid the application of a new interlocal agreement; and

WHEREAS, the Planning and Zoning Commission of the City of McLendon-Chisholm and the City Council of the City of McLendon-Chisholm, in compliance with the laws of the

State of Texas have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing to all persons interested in and situated in the affected area and in the vicinity thereof, the City Council in the exercise of its legislative discretion has concluded that a moratorium on residential and commercial development for property in the City's Extraterritorial Jurisdiction ("ETJ") is necessary and in the interest of good governance, and ultimately in the best interest of the City of McLendon-Chisholm.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCLENDON-CHISHOLM, TEXAS:

SECTION 1. FINDINGS OF FACT

The foregoing recitals are adopted as facts and incorporated fully herein.

SECTION 2. ENACTMENT

PURPOSE AND DEFINITIONS

A. Purpose. This temporary moratorium prohibiting applications for subdivision, building permits or development permits is adopted so that the Council may promote the public health, safety and general welfare within the City through the regulation of the subdivision of land and laying out of neighborhoods and commercial, industrial or residential developments. The purpose of this ordinance includes, but is not limited to, preserving the status quo in order to allow the Council reasonable time to review, conduct research, receive public input, evaluate and establish reasonable policies, and prepare comprehensive subdivision and building ordinances, as well as enter into an interlocal agreement with the County in compliance with State law. This ordinance provides temporary regulations while the Council enacts the appropriate administrative and regulatory rules and procedures.

B. Applicability. The provisions of this ordinance shall apply within the ETJ, including but not limited to, properties used for the following purposes: Agricultural; Conservation; Single-Family Residential; Multi-Family Residential; Office; Business; Religious/Charitable/Fraternal; Government/Utility/Institutional; Industrial; Parks and Recreational; and Utilities.

C. Definitions. The following words, terms, and phrases shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning. A word or term not defined herein shall be read in accordance with its common or standard definition. Headings and captions are for reference purposes only.

Build: to form by ordering and uniting materials by gradual means into a composite whole. The term includes the acts of developing or expanding upon buildings or structures. The term also includes the installation or placement upon land of a prefabricated building. The term also includes the paving of the surface with gravel or impervious cover.

Clear: to make a material change in the character of the land, including but not limited to the extraction of vegetation, removal of brush, cutting of trees, or modification of the natural grade or slope of the land.

Commercial Property: Commercial property is defined as any property that is being platted for the purpose of authorizing any land use other than single-family or agricultural land uses (e.g. multi- family, industrial, commercial, etc.).

Cut: to excavate dirt, stone or other material in order to modify land or alter drainage patterns.

Fill: to deposit or stockpile dirt, stone, construction debris or other material in order to modify land or alter current drainage patterns.

Ordinary Maintenance: activities relating to a property that would be considered ordinary or common for maintaining the property, including but not limited to repairs, or the replacement of materials with identical or in-kind materials. The term expressly omits activities involving the expansion, modification, enlargement, reduction, renovation or remodeling of buildings or

structures. The term also omits the cutting away of walls or partitions, cutting or removal of a structural beam or load bearing support; removal or change of means of egress.

Person: any human individual or corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

Residential Property. Residential property is defined as any property that is being platted for the purpose of authorizing single-family and agricultural land uses.

REQUIRED PERMITS

A. Site Plans Required. It is an offense for a person to build or install any streets, alleys, sidewalks, drainage ways, waterlines, or sewer lines ETJ without first applying for and receiving a permit from the City.

B. Site Clearance Required. It is an offense for a person to grade a tract of land, perform a cut of a tract of land deeper than one-foot above natural ground level, or fill a tract of land above one-foot below natural ground level, in the City Limits without first applying for and receiving a permit from the City. This requirement does not apply to ordinary maintenance, or routine farming or agricultural activities.

C. Subdivisions Required. It is an offense for a person to divide a tract of land into two or more parts to lay out a subdivision of the tract, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares parks or other parts of the tract intended to be dedicated to public use, or for the use of the purchasers or owners of lots fronting or adjacent to the streets, alleys, squares parks or other parts, in the ETJ, without first submitted a plat to the City and receiving plat approval from the City.

TEMPORARY MORATORIUM

A. Permit Suspension. The City will neither accept nor process applications for these permits:

(1) Site Plans: The City's acceptance, review and approval of all site plans in the ETJ is hereby temporarily suspended and prohibited.

(2) Site Clearance: The City's acceptance, review and approval of permits for site clearance, excavation grading or filling for projects in the ETJ is hereby temporarily suspended and prohibited.

(3) Subdivisions: The City's acceptance, review and approval of plat applications for projects in the ETJ is hereby temporarily suspended and prohibited.

B. Duration. This temporary moratorium shall be in effect as of the date of passage for a period of 180 days for commercial property and 120 days for residential property and may be extended by a simple majority vote of the Council.

WAIVER

A. Requirements. An owner of property may request a waiver from the requirements of this ordinance if one or more of the following three (3) requirements are satisfied:

(1) Special circumstances or conditions imposing an undue hardship on the property owner because of a unique situation upon the land that is different from other tracts of land.

(2) The owner can demonstrate in writing a legal right to proceed under regulations that predated incorporation of the City.

(3) The proposed construction is necessitated by concerns for public safety and will serve to protect the public health, safety and welfare. Specifically, the waiver request must

establish that the proposed construction will further one or more of the legitimate public concerns:

- (a) vehicular traffic safety; or
- (b) pedestrian traffic safety; or
- (c) fire prevention and protection; or
- (d) emergency medical services; or
- (e) flood damage prevention and protection; or
- (f) water quality pollution prevention; or
- (g) sanitary urgency.

B. Process for Application.

(1) Applicants for a waiver must submit a completed form with attachments to the City Administrator. The application, accompanying documentation, and administrative fees must be rendered to the City at least two (2) weeks prior to the public hearing.

(2) The Applicant must provide written notice to all property owners within two hundred (200) feet of the footprint of the property line for which a waiver is sought. The notice shall contain a description of the waiver and the time, date, and place of the public hearing on the application. Notice must be provided at least ten (10) days prior to the hearing.

(3) Applications for a waiver shall be reviewed by the City Administrator and Planner prior to submission to the Council for consideration.

(4) A waiver may be granted by the Council after a public hearing and upon issuance of written findings that special circumstances or conditions affecting the property in question justify the waiver, and that the granting of the waiver will not have an adverse effect on neighboring properties, or hinder the accomplishment of the goals of the moratorium established by this ordinance.

(5) An applicant for a waiver may voluntarily request that the application be postponed or withdrawn prior to final action by the Council. In the event of voluntary

postponement, no additional administrative fees are due. In the event of re-submission following voluntary withdrawal or denial, the file shall be processed as a new application and additional fees may be collected.

EXCEPTIONS AND EXEMPTIONS:

A. Exceptions.

1. No Impact Projects. The temporary moratorium implemented by this Ordinance does not apply to a project that does not:

- (a) increase density,
- (b) increase or impact impervious cover,
- (c) expand the footprint of an existing structure, or
- (d) alter the current drainage pattern on the property.

2. Ongoing Projects. The temporary moratorium implemented by this Ordinance does not apply to any projects that are currently, actively in progress for which valid City permits have been issued and have not expired (as of the date of this temporary moratorium).

3. Grandfathered Projects. The temporary moratorium implemented by this Ordinance shall not apply to projects that are grandfathered under as provided by state law. Property owners asserting grandfathered rights under Texas Local Government Code Chapter 245 must submit an application claiming an exception to this temporary moratorium to the planning department for review in accordance with City policy.

B. Exemptions. Any property owner who does not assert rights under Texas Local Government Code Chapter 245, but who seeks authorization to proceed with the development permitting process during the time of the temporary moratorium can request the following alternative forms of approval:

1. Planned Development District: Property owners with an approval granted by the City Council including enactment of customized zoning regulations through negotiations of specialized rules applicable solely to the proposed project may apply for waiver in accordance with City policy.

2. Alternate Design Standards: Property owners with a negotiated approval granted by the City Council for the construction of drainage infrastructure that exceeds the current standards in the code of ordinances may apply for waiver in accordance with City policy.

3. ETJ Development Agreement: Property owners with a negotiated approval granted by the City Council providing for construction standards, platting and development rules pursuant to Local Government Code Chapter 212, Subchapter G may apply for waiver in accordance with City policy.

SECTION 3. ENFORCEMENT

A. Civil Action. The City shall have the power to administer and enforce the provisions of this ordinance as may be required by governing law. Any person violating any provision of this ordinance is subject to suit for injunctive relief.

SECTION 4. REPEALER AND SEVERABILITY

REPEALER: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and

independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication in the city's official newspaper.

SECTION 6. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid, unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

DULY PASSED and approved by the City Council of the City of McLendon-Chisholm, Texas on this the 10th day of March 2020.

APPROVED:

Keith Short, Mayor

ATTEST:

Rochelle Green, City Secretary

SUBCHAPTER E. MORATORIUM ON PROPERTY DEVELOPMENT IN CERTAIN
CIRCUMSTANCES

Sec. 212.131. DEFINITIONS. In this subchapter:

(1) "Essential public facilities" means water, sewer, or storm drainage facilities or street improvements provided by a municipality or private utility.

(2) "Residential property" means property zoned for or otherwise authorized for single-family or multi-family use.

(3) "Property development" means the construction, reconstruction, or other alteration or improvement of residential or commercial buildings or the subdivision or replatting of a subdivision of residential or commercial property.

(4) "Commercial property" means property zoned for or otherwise authorized for use other than single-family use, multifamily use, heavy industrial use, or use as a quarry.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 1, eff. September 1, 2005.

Sec. 212.132. APPLICABILITY. This subchapter applies only to a moratorium imposed on property development affecting only residential property, commercial property, or both residential and commercial property.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.133. PROCEDURE FOR ADOPTING MORATORIUM. A municipality may not adopt a moratorium on property development unless the municipality:

- (1) complies with the notice and hearing procedures prescribed by Section [212.134](#); and
- (2) makes written findings as provided by Section [212.135](#), [212.1351](#), or [212.1352](#), as applicable.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.134. NOTICE AND PUBLIC HEARING REQUIREMENTS. (a) Before a moratorium on property development may be imposed, a municipality must conduct public hearings as provided by this section.

(b) A public hearing must provide municipal residents and affected parties an opportunity to be heard. The municipality must publish notice of the time and place of a hearing in a newspaper of general circulation in the municipality on the fourth day before the date of the hearing.

(c) Beginning on the fifth business day after the date a notice is published under Subsection (b), a temporary moratorium takes effect. During the period of the temporary moratorium, a municipality may stop accepting permits, authorizations, and approvals necessary for the subdivision of, site planning of, or construction on real property.

(d) One public hearing must be held before the governing body of the municipality. Another public hearing must be held before the municipal zoning commission, if the municipality has a zoning commission.

(e) If a general-law municipality does not have a zoning commission, two public hearings separated by at least four days must be held before the governing body of the municipality.

(f) Within 12 days after the date of the first public hearing, the municipality shall make a final determination on the imposition of a moratorium. Before an ordinance adopting a moratorium may be imposed, the ordinance must be given at least two readings by the governing body of the municipality. The readings must be separated by at least four days. If the municipality fails to adopt an ordinance imposing a moratorium within the period prescribed by this subsection, an ordinance imposing a moratorium may not be adopted, and the temporary moratorium imposed under Subsection (c) expires.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.135. JUSTIFICATION FOR MORATORIUM: SHORTAGE OF ESSENTIAL PUBLIC FACILITIES; WRITTEN FINDINGS REQUIRED. (a) If a municipality adopts a moratorium on property development, the moratorium is justified by demonstrating a need to prevent a shortage of essential public facilities. The municipality must issue written findings based on reasonably available information.

(b) The written findings must include a summary of:

(1) evidence demonstrating the extent of need beyond the estimated capacity of existing essential public facilities that is expected to result from new property development, including identifying:

(A) any essential public facilities currently operating near, at, or beyond capacity;

(B) the portion of that capacity committed to the development subject to the moratorium; and

(C) the impact fee revenue allocated to address the facility need; and

(2) evidence demonstrating that the moratorium is reasonably limited to:

(A) areas of the municipality where a shortage of essential public facilities would otherwise occur; and

(B) property that has not been approved for development because of the insufficiency of existing essential public facilities.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.1351. JUSTIFICATION FOR MORATORIUM: SIGNIFICANT NEED FOR PUBLIC FACILITIES; WRITTEN FINDINGS REQUIRED. (a) Except as provided by Section [212.1352](#), a moratorium that is not based on a shortage of essential public facilities is justified only by demonstrating a significant need for other public facilities, including police and fire facilities. For purposes of this subsection, a significant need for public facilities is established if the failure to provide those public facilities would result in an overcapacity of public facilities or would be detrimental to the health, safety, and welfare of the residents of the municipality. The municipality must issue written findings based on reasonably available information.

(b) The written findings must include a summary of:

(1) evidence demonstrating that applying existing development ordinances or regulations and other applicable laws is inadequate to prevent the new development from causing the overcapacity of municipal infrastructure or being detrimental to the public health, safety, and welfare in an affected geographical area;

(2) evidence demonstrating that alternative methods of achieving the objectives of the moratorium are unsatisfactory; and

(3) evidence demonstrating that the municipality has approved a working plan and time schedule for achieving the objectives of the moratorium.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.1352. JUSTIFICATION FOR COMMERCIAL MORATORIUM IN CERTAIN CIRCUMSTANCES; WRITTEN FINDINGS REQUIRED. (a) If a municipality adopts a moratorium on commercial property development that is not based on a demonstrated shortage of essential public facilities, the municipality must issue written findings based on reasonably available information that the moratorium is justified by demonstrating that applying existing commercial development ordinances or regulations and other applicable laws is inadequate to prevent the new development from being detrimental to the public health, safety, or welfare of the residents of the municipality.

(b) The written findings must include a summary of:

(1) evidence demonstrating the need to adopt new ordinances or regulations or to amend existing ordinances, including identification of the harm to the public health, safety, or welfare that will occur if a moratorium is not adopted;

(2) the geographical boundaries in which the moratorium will apply;

(3) the specific types of commercial property to which the moratorium will apply; and

(4) the objectives or goals to be achieved by adopting new ordinances or regulations or amending existing ordinances or regulations during the period the moratorium is in effect.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.136. EXPIRATION OF MORATORIUM; EXTENSION. A moratorium adopted under Section [212.135](#) or [212.1351](#) expires on

the 120th day after the date the moratorium is adopted unless the municipality extends the moratorium by:

- (1) holding a public hearing on the proposed extension of the moratorium; and
- (2) adopting written findings that:
 - (A) identify the problem requiring the need for extending the moratorium;
 - (B) describe the reasonable progress made to alleviate the problem; and
 - (C) specify a definite duration for the renewal period of the moratorium.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.1361. NOTICE FOR EXTENSION REQUIRED. A municipality proposing an extension of a moratorium under this subchapter must publish notice in a newspaper of general circulation in the municipality not later than the 15th day before the date of the hearing required by this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.1362. EXPIRATION OF MORATORIUM ON COMMERCIAL PROPERTY IN CERTAIN CIRCUMSTANCES; EXTENSION. (a) A moratorium on commercial property adopted under Section [212.1352](#) expires on the 90th day after the date the moratorium is adopted unless the municipality extends the moratorium by:

- (1) holding a public hearing on the proposed extension of the moratorium; and
- (2) adopting written findings that:

(A) identify the problem requiring the need for extending the moratorium;

(B) describe the reasonable progress made to alleviate the problem;

(C) specify a definite duration for the renewal period of the moratorium; and

(D) include a summary of evidence demonstrating that the problem will be resolved within the extended duration of the moratorium.

(b) A municipality may not adopt a moratorium on commercial property under Section [212.1352](#) that exceeds an aggregate of 180 days. A municipality may not adopt a moratorium on commercial property under Section [212.1352](#) before the second anniversary of the expiration date of a previous moratorium if the subsequent moratorium addresses the same harm, affects the same type of commercial property, or affects the same geographical area identified by the previous moratorium.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.137. WAIVER PROCEDURES REQUIRED. (a) A moratorium adopted under this subchapter must allow a permit applicant to apply for a waiver from the moratorium relating to the property subject to the permit by:

(1) claiming a right obtained under a development agreement; or

(2) providing the public facilities that are the subject of the moratorium at the landowner's cost.

(b) The permit applicant must submit the reasons for the request to the governing body of the municipality in writing. The governing body of the municipality must vote on whether to grant the waiver request within 10 days after the date of receiving the written request.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

Sec. 212.138. EFFECT ON OTHER LAW. A moratorium adopted under this subchapter does not affect the rights acquired under Chapter [245](#) or common law.

Added by Acts 2001, 77th Leg., ch. 441, Sec. 1, eff. Sept. 1, 2001.

Sec. 212.139. LIMITATION ON MORATORIUM. (a) A moratorium adopted under this subchapter does not affect an application for a project in progress under Chapter [245](#).

(b) A municipality may not adopt a moratorium under this subchapter that:

(1) prohibits a person from filing or processing an application for a project in progress under Chapter [245](#); or

(2) prohibits or delays the processing of an application for zoning filed before the effective date of the moratorium.

Added by Acts 2005, 79th Leg., Ch. 1321 (H.B. [3461](#)), Sec. 2, eff. September 1, 2005.

May 2, 2020

General Election

Contract for Election Services

**Elections Administrator of
Rockwall County**

and

City of MCLENDON-CHISHOLM

and

**Rockwall Independent School
District**

May 2, 2020

General Election

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**STATE OF TEXAS
COUNTY OF ROCKWALL
CITY OF MCLENDON-CHISHOLM
ROCKWALL INDEPENDENT SCHOOL DISTRICT**

CONTRACT FOR ELECTION SERVICES

BY THE TERMS OF THIS CONTRACT made and entered into by and between the **CITY OF MCLENDON-CHISHOLM**, the **ROCKWALL INDEPENDENT SCHOOL DISTRICT** and the **ELECTIONS ADMINISTRATOR OF ROCKWALL COUNTY** pursuant to the authority in Subchapter D, Section 31.092 and 271.002 of the Texas Election Code, agree to the following particulars in regard to coordination, supervision and running of the City's General Election and the School District's General Election to be held on May, 2 2020.

THIS AGREEMENT is entered into in consideration of the mutual covenants and promises hereinafter set out. IT IS AGREED AS FOLLOWS:

I. PRINCIPAL DUTIES AND SERVICES OF THE EA. The EA shall be responsible for performing the following duties and shall furnish the following services and equipment:

- A. The EA shall arrange for appointment, notification (including writ of election), training and compensation of all presiding judges, alternate judges, the judge of the Tabulation Room and judge of the Early Voting Balloting Board.
 1. The EA shall be responsible for notification of each Election day and Early Voting presiding judge and alternate judge of his or her appointment. The EA recommends providing up to four (4) election workers including alternate judges, clerks and interpreters. The presiding election judge of each polling place, however, will use his/her discretion to determine the working hours of the election workers during normal and peak voting hours. The EA will determine the number of clerks to work in the Tabulation Room and the number of clerks to work on the Balloting Board.
 2. Election judges (including Presiding and Alternate) shall attend the EA's school of instruction (Elections Seminar) to be held on a date determined by the EA. The Elections Seminar shall provide training in standard procedures as set forth by the Secretary of State and will also include training on the equipment the County owns.

3. Election judges shall be responsible for picking up from and returning election supplies to the Rockwall County Election Administrator's office located at 915 Whitmore Dr. Suite D, Rockwall, Texas. Compensation for this pickup and delivery of supplies will be \$25.00.
 4. The EA shall compensate each election judge, alternate judge, clerk and interpreter. Each election judge and interpreter shall receive \$12.00 per hour for services rendered. Each alternate judge and clerk shall receive \$10.00 per hour for services rendered. Additional personnel required to assist in the processing of Ballot by Mail applications will be paid \$12 an hour. The expense shall be shared equally pursuant to the Joint Election Agreement as shown in Appendix D attached and incorporated by reference into this contract.
- B. The EA shall procure, prepare, and distribute voting machines, election kits and election supplies.
1. The EA shall secure election kits which include the legal documentation required to hold an election and all supplies including locks, pens, markers, etc.
 2. The EA shall secure all tables, chairs, and legal documentation required to run the Tabulation Room.
 3. The EA shall provide all lists of registered voters required for use on election day and for the early voting period required by law. The Election Day List of registered voters shall be arranged in alphabetical order by polling place.
 4. The EA shall procure and arrange for the distribution of all election equipment and supplies required to hold an election. Equipment includes the rental of ExpressVote and DS 200.
- C. The EA shall be appointed as the Early Voting Clerk by the City and School District.
1. The EA shall supervise and conduct early voting by mail and in person and shall secure personnel to serve as Early Voting Deputies.
 2. Early Voting by personal appearance for the City's General Election and School District's General Election held on May 2, 2020 shall be conducted during the time period and at the locations listed in Appendix "A", attached and incorporated by reference into this contract.
 3. All applications for an Early Voting mail ballot shall be received and processed by the Rockwall County Elections Administrator's office located at 915 Whitmore Dr. Suite D, Rockwall, Texas 75087.

- (a) Applications for mail ballots erroneously mailed to the City or School District shall immediately be faxed to the EA for timely processing. The original application shall then be forwarded to the EA for proper retention.
 - (b) All Federal Post Card Applicants (FPCA) will be sent an e-mail ballot.
- 4. All Early Voting ballots (those cast by mail and those cast by personal appearance) shall be prepared for count by the Early Voting Ballot Board in accordance with Section 87.000 of the Texas Election Code. The presiding judge of this Board shall be appointed by the EA. The Board shall meet for preparation of the early voting ballots at a time agreed to between the EA and the Early Voting Ballot Board Judge.
- D. The EA shall arrange for the use of all election day polling places. The City and School District shall each assume the responsibility of incurring and absorbing the cost of its employees required to provide access, security and/or custodial services for the polling locations pursuant to a Joint Election Agreement as shown in Appendix D attached and incorporated by reference into this contract. The election day polling locations are listed in Appendix "B", attached and incorporated by reference into this contract.
- E. The EA shall be responsible for establishing and operating the Tabulation Room.
 - 1. The EA shall prepare, test and run the County's Tabulation System in accordance with the statutory requirements.
 - 2. The Public Logic and Accuracy Test of the electronic voting system shall be conducted by the EA and notice of the date shall be posted via electronic and hard copy media sources within the County.
 - 3. Election night reports will be available to the City and School District after tabulation is completed. Results will be posted on election night via the Elections Departments website (rockwallvotes.com) Provisional ballots will be tabulated after election night in accordance with the law.
 - 4. The EA shall prepare the unofficial canvass report after all precincts have been counted, and will provide a copy of the unofficial canvass to the City and School District as soon as possible after all returns have been tallied.

5. The EA shall conduct a manual count as prescribed by Section 127.201 of the Texas Election Code and submit a written report to the City and School District in a timely manner. Unless waived by the Secretary of State, if applicable, a written report shall be submitted to the Secretary of State as required by Section 127.201(e) of the aforementioned code.

II. **PRINCIPAL DUTIES AND SERVICES OF THE CITY AND SCHOOL DISTRICT.**

Each entity shall assume the following responsibilities:

- A. The City and School District shall prepare the election orders, resolutions, notices, official canvass and other pertinent documents for adoption by the appropriate office or body and post IAW Election Code Statutes.
- B. **The City and School District shall provide the EA with an updated map and street index of its jurisdictions in an electronic or printed format not later than 1 March 2020.**
- C.
 1. The City and School District shall deliver to the EA as soon as possible the official wording for the City's General Election and School District's General Election to be held on May 2, 2020.
 2. The City and School District shall approve the ballot format prior to the final printing.
- D. The City, School District and the EA shall determine the number of ballots to be purchased.
- E. The City and School District shall compensate the EA for any additional verified cost incurred in the process of running this election or for a manual count of this election, if required, consistent with charges and rates shown on Appendix C for required services. These costs will be invoiced for reimbursement.
- F. The City and School District shall reimburse Rockwall County for its portion of the printing costs of any and all related materials for ballots, early voting, election day voting, and election kits, as well as the rental fee for the use of the ExpressVote System.
- G. The City and School District shall each reimburse the EA for an administrative fee of ten percent (10%) of the City and School District's portion of the total cost of the election.
- H. The City and School District shall each deposit its share of the election costs as set forth on Appendix C. The check is to be made payable to Rockwall County and delivered to the EA. The final costs of the election along with the ten percent (10%) administration fee will be prepared on a format similar to Appendix C and the invoice along with any supporting documentation shall be delivered by the EA. The invoice is due and payable 30 days after receipt by the City and School District.

- I. The City and School District, in the event of a contested election, agrees to provide competent legal counsel and representation for the EA and staff, covering any and all legal fees and costs as a result of this elections process.
- J. The City and School District, in the event of a recount, agrees to reimburse any expenses incurred by the EA's office not covered by the charges assessed to the person requesting the recount. This would include, but not be limited to the compensation costs of any Rockwall County Election personnel required to work beyond regular office hours in order to conduct said recount of this election. The recount shall take place in the EA's office and the EA's office shall assist the Recount Supervisor and/or the Recount Coordinator in the completion of the recount.
- K. The EA shall be the custodian of the voted ballots and shall retain all election materials for a period of 6 months.

III. COST OF SERVICES. See Appendix C.

- A. The City and School District shall share equally in the expense of conducting early voting and election day voting pursuant to a Joint Election Agreement as shown in Appendix D attached incorporated by reference into this contract.
- B. The cost of site support by Third Party Contractors shall be shared equally by the City and School District pursuant to a Joint Election Agreement as shown in Appendix D attached and incorporated by reference into this contract.

IV. GENERAL PROVISIONS.

- A. [To the extent of the law](#), the City and School District agree to save and hold harmless the EA from any and all claims arising out of the failure or omission of the City or School District to perform its obligations under this contract.
- B. [To the extent of the law](#), the EA agrees to save and hold harmless the City and School District from any all claims arising out of the failure or omission of the County and the EA to perform their obligations under this contract.
- C. Nothing contained in this contract shall authorize or permit a change in the officer with whom or the place at which any document or record relating to the City's General Election or School District's General Election held on May 2, 2020 is to be filed or the place at which any function is to be carried out, or any nontransferable functions specified under Section 31.066 of the Texas Election Code.
- D. Upon request, the EA shall provide copies of all invoices, cost reports and other charges incurred in the process of running said election for the City

and School District.

- E. The EA shall file copies of this contract with the County Auditor and the County Treasurer of Rockwall County, Texas.
- F. The City and School District shall enter into a Joint Election Agreement as shown in Appendix D attached and incorporated by reference into this contract.
- G. If the City and/or School District cancels their election pursuant to Section 2.053 of the Texas Election Code, the EA shall be paid a contract preparation fee of \$75.00. The City and School District will not be liable for any further costs incurred by the EA in conducting the May 2, 2020 Election.
- H. Except as otherwise provided, this Agreement may not be amended, modified, or changed in any respect whatsoever, except by a further Agreement in writing, duly executed by the parties hereto. No official, representative, agent or employee of any Participating Entity has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the governing body of the respective Participating Entity.
- I. This Agreement may be executed in multiple counterparts, all of which shall be deemed originals and with the same effect as if all parties hereto had signed the same document. All of such counterparts shall be construed together and shall constitute one and the same Agreement.

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WITNESS BY MY HAND THIS _____ DAY OF _____, 2020.

Christopher J. Lynch, Elections Administrator
Rockwall County, Texas

Lisa Palomba, City Manager
City of MCLENDON-CHISHOLM, Texas

ATTEST:

Shelly Green, City Secretary

Dr. John Villarreal, Superintendent
Rockwall Independent School District

ATTEST:

Secretary

x

Appendix A EARLY VOTING LOCATIONS & HOURS FOR GENERAL ELECTION

(votacion anticipada horarios y ubicaciones para elecciones generales)

May, 2 2020

(2 de mayo de 2020)

POLLING PLACE (lugar de votacion)		LOCATION & ADDRESS (lugar y direccion)			CITY (ciudad)	
CITY HALL		1371 W FM 550			MCLENDON-CHISHOLM	
SUNDAY (Domingo)	MONDAY (Lunes)	TUESDAY (Martes)	WEDNESDAY (Miercoles)	THURSDAY (Jueves)	FRIDAY (Viernes)	SATURDAY (Sabado)
N/A	APRIL 20 8am – 5pm Early Voting	APRIL 21* 7am – 7pm Early Voting	APRIL 22 8am – 5pm Early Voting	APRIL 23* 7am – 7pm Early Voting	APRIL 24 8am – 5pm Early Voting	APRIL 25 10am – 3pm Early Voting
SUNDAY N/A	APRIL 27 Early Voting	APRIL 28 8am – 5pm Early Voting	APRIL 29 N/A	APRIL 30 N/A	MAY 1 N/A	MAY 2 Election Day 7am-7pm

*Extended hours on Tuesday, April 21ST and Thursday, April 23rd, 2020

Appendix B ELECTION DAY VOTING LOCATIONS & HOURS FOR GENERAL ELECTION

(lugares de votacion de día de la eleccion para elecciones generales)

May, 2 2020

(6 de mayo de 2017)

7:00 a.m. – 7:00 p.m.

POLLING PLACE (lugar de votacion)	LOCATION & ADDRESS (lugar y direccion)	CITY (ciudad)
CITY HALL	1371 W FM 550	MCLENDON-CHISHOLM

Appendix C

COST OF SERVICES (Estimate)				
	Quantity	Unit Costs	Subtotal Costs	Extended Costs
DIRECT COSTS				
ES&S (VENDOR)				
ES&S Site Support Fee				846.50
Programming				1974.40
Ballots	3000	.30		1800.00
TOTAL BILLED FROM ES&S				4620.90
ROCKWALL COUNTY EA				
Supply Costs				30.00
Equipment Rental				
EXPRESSVOTE	6	250.00	250.00	1250.00
DS200	1	100.00	100.00	100.00
Herald-Banner (Advertisement)				133.25
COMPENSATION OF COUNTY EMPLOYEES				
Staff Overtime				700.00
COMPENSATION OF JUDGES & CLERKS				2000.00
TOTAL BILLED FROM COUNTY				4213.25
SUBTOTAL OF DIRECT COSTS				8834.15
ADMIN FEE (10% CALCULATED ON FINAL BILLING)				883.00
TOTAL CONTRACT COST				9717.15

Appendix D

**STATE OF TEXAS
CITY OF MCLENDON-CHISHOLM
ROCKWALL INDEPENDENT SCHOOL DISTRICT**

JOINT ELECTION AGREEMENT

This Agreement is entered into by and between the City of MCLENDON-CHISHOLM, and the Rockwall Independent School District

By the terms of this agreement, the City and School District do hereby agree, pursuant to the provisions of the Texas Election Code, to hold a joint election of the General Election of the City and the General Election of the School District to be held on Saturday, May 2, 2020. All entities have contracted with the Rockwall County Elections Administrator to perform various duties and responsibilities on behalf of the two entities.

The two entities shall share equally in the expense of conducting Early and Election Day voting, polling locations, election officials, election supplies, ballots and other and all necessary expenses for the election upon receipt of satisfactory billing and invoices reflecting the total of such election.

An entity canceling an election pursuant to Section 2.053 of the Texas Election Code will not be liable for costs incurred by the EA in conducting the May 2, 2020 Joint General Election; they will be liable for the contract preparation fee of \$75.00.

This Agreement contains the entire agreement of the parties relating to the rights herein granted and the obligations herein assumed and supersedes all prior agreements, including prior election services contracts relating to each Entity's May 2020 election. Any prior agreements, promises, negotiations, or representations not expressly contained in this Agreement are of no force and effect. Any oral representations or modifications concerning this Agreement shall be of no force or effect, excepting a subsequent modification in writing as provided herein.

Except as otherwise provided, this Agreement may not be amended, modified, or changed in any respect whatsoever, except by a further Agreement in writing, duly executed by the parties hereto. No official, representative, agent or employee of any Participating Entity has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the governing body of the respective Participating Entity.

This Agreement may be executed in multiple counterparts, all of which shall be deemed originals and with the same effect as if all parties hereto had signed the same

document. All of such counterparts shall be construed together and shall constitute one and the same Agreement.

APPROVED BY THE CITY COUNCIL OF MCLENDON-CHISHOLM TEXAS, in its meeting held on the 10th day of March, 2020, and executed by its authorized representative.

Lisa Palomba, City Manager
City of MCLENDON-CHISHOLM, Texas

ATTEST:

Shelly Green, City Secretary

APPROVED BY THE TRUSTEES OF THE ROCKWALL INDEPENDENT SCHOOL BOARD, in its meeting held on the _____ day of _____, 2020 and executed by its authorized representative.

Dr. John Villarreal, Superintendent
Rockwall Independent School District

ATTEST:

Secretary

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**CITY OF MCLENDON-CHISHOLM IMPROVEMENT DISTRICT PHASE #1C
DEPOSIT AGREEMENT**

THIS DEPOSIT AGREEMENT dated as of _____ (“Agreement”), is by and between City of McLendon-Chisholm, a Texas Type A general law city and Wilmington Trust, National Association (“Bank”).

BACKGROUND

WHEREAS, Depositor desires to deposit funds with Bank from time to time in connection with the creation and implementation of certain public improvement districts established and to be established by City of McLendon-Chisholm pursuant to Texas Local Government Code Chapter 372, Sonoma Public Improvement District Phase #1C (collectively, the “PID”); and

WHEREAS Bank has agreed to accept, hold, and disburse the funds deposited with it and the earnings thereon in accordance with the terms of this Agreement.

STATEMENT OF AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

1. Definitions. The following terms shall have the following meanings when used herein:

“Depositor Representative” shall mean the person(s) so designated on Schedule A hereto or any other person designated in writing, signed by Depositor and delivered to Bank in accordance with the notice provisions of this Agreement, to act as its representative under this Agreement.

“Funds” shall mean the funds deposited with Bank pursuant to Section 3 of this Agreement, together with any interest and other income thereon.

“Period” shall mean the period commencing on the date hereof and ending on the applicable termination date set forth on Schedule A hereto.

“Written Direction”, shall mean a written direction executed by a Depositor Representative and directing Bank to disburse all or a portion of the Funds or to take or refrain from taking an action pursuant to this Agreement.

2. Appointment of and Acceptance by Bank. Depositor hereby appoints Bank to serve hereunder. Bank hereby accepts such appointment and, upon receipt of Funds in accordance with Section 3 below, agrees to hold and disburse the Funds in accordance with this Agreement.

3. Deposit of Funds. After the execution and delivery of this Agreement. Depositor will transfer Funds from time to time to Bank, by wire transfer of immediately available funds or some other customary method, to the Bank along with Written Direction as to which PID collection account such Funds are to be placed in an account for such PID.

4. Disbursements of Funds. Bank shall disburse Funds at any time and from time to time, upon receipt of, and in accordance with, Depositor's Written Direction. Such Written Direction shall contain wiring instructions or an address to which a check shall be sent. Upon the expiration of the

Period, Bank shall distribute, as promptly as practicable, the Funds in the manner described on Schedule A, without any further instruction or direction.

All disbursements of Funds from the relevant account shall be subject to the fees and claims of Bank and the Indemnified Parties (as defined below) pursuant to Section 9 and Section 10 below.

5. Suspension of Performance: Disbursement Into Court. If, at any time, Bank is unable to determine, to Bank's sole satisfaction, the proper disposition of all or any portion of the Funds or Banks proper actions with respect to its obligations hereunder, then Bank may, in its sole discretion, take either or both of the following actions:

- a. suspend the performance of any of its obligations (including without limitation any disbursement obligations) under this Agreement until such dispute or uncertainty shall be resolved to the sole satisfaction of Bank,
- b. petition (by means of an interpleader action or any other appropriate method) any court of competent jurisdiction in any venue convenient to Bank, for instructions with respect to such dispute or uncertainty, and to the extent required or permitted by law, pay into such court, for holding and disposition in accordance with the instructions of such court, all Funds, after deduction and payment to Bank of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by Bank in connection with the performance of its duties and the exercise of its rights hereunder.

Bank shall have no liability to Depositor or any other person with respect to any such suspension of performance or disbursement into court, specifically including any liability or claimed liability that may arise, or be alleged to have arisen, out of or as a result of any delay in the disbursement of the Funds or any delay in or with respect to any other action required or requested of Bank.

6. Investments. Funds on deposit hereunder shall be invested in permitted investments, as provided in the Texas Public Funds Investment Act, at the written direction of Depositor. In the absence of written direction, the Bank shall invest the funds in the Blackrock Fed Fund (Govt), Dollar Share Class. The Bank shall not be liable or responsible for monitoring or ensuring that any investment is a Permitted Investment as described under any other document or agreement relating to the relevant PID transaction.

Any income or interest earned, or any losses, on any Funds shall accrue to and be deposited in the account from which said Funds were deposited or invested or be debited against such account.

All money deposited with the Bank hereunder shall be secured in the manner and to the fullest extent required by law for the security of funds of the Depositor. Any Funds held by the Bank in excess of the deposit insurance provided by the Federal Deposit Insurance Corporation will be fully collateralized with obligations that are eligible under the laws of the State of Texas.

This Agreement relates solely to money deposited for the purposes described herein, and the parties agree that the Bank may serve as depository for other funds of the Depositor, act as trustee under resolutions authorizing other transactions of the Depositor, or act in any other capacity not in conflict with its duties hereunder. In particular, but without limiting the generality of the foregoing, the Bank may serve as "Bond Trustee" and "Escrow Agent" in regard to the PID transaction.

7. Resignation or Removal of Bank. Bank may resign and be discharged from the performance of its duties hereunder at any time by giving thirty (30) days' prior written notice to the Depositor specifying a date when such resignation shall take effect and after such specified date, notwithstanding any other provision of this Agreement, Bank's sole obligation will be to hold the Funds pending appointment of a successor Bank. Similarly, Bank may be removed at any time by Depositor giving at least thirty (30) days' prior written notice to Bank specifying the date when such removal shall take effect. Upon the effective date of any such resignation or removal, Bank shall return the Funds to or at the direction of the Depositor after deduction and payment to Bank of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by Bank in connection with the performance of its duties and the exercise of its rights hereunder. After Bank's resignation or removal, the provisions of this Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it while it was acting under this Agreement.

8. Liability of Bank. Bank undertakes to perform only such duties as are expressly set forth herein and no duties shall be implied. Bank has no fiduciary or discretionary duties of any kind. The Bank shall have no liability under the provisions of any agreement other than this Deposit Agreement. The Bank will not be responsible or liable for the failure of any Party to perform in accordance with this Deposit Agreement. The Bank shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument, or document other than this Deposit Agreement, whether or not an original or a copy of such agreement has been provided to the Bank; and the Bank shall have no duty to know or inquire as to the performance or nonperformance of any provision of any such agreement, instrument, or document. References in this Deposit Agreement to any other agreement, instrument, or document are for the convenience of the Parties, and the Bank has no duties or obligations with respect thereto. This Deposit Agreement sets forth all matters pertinent to the deposit contemplated hereunder, and no additional obligations of the Bank shall be inferred or implied from the terms of this Deposit Agreement or any other agreement. Bank shall not be liable for any action taken or omitted by it in good faith except to the extent that a court of competent jurisdiction determines, which determination is not subject to appeal that Bank's gross negligence or willful misconduct was the primary cause of any loss to the Depositor. Bank's sole responsibility shall be for the safekeeping of the Funds in accordance with Bank's customary practices and disbursement of the Funds in accordance with the terms of this Agreement. Bank shall have no implied duties or obligations and shall not be charged with knowledge or notice of any fact or circumstance not specifically set forth herein. Bank may rely upon any notice, instruction, request or other instrument, not only as to its due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein, which Bank believes to be genuine and to have been signed or presented by the person or parties purporting to sign the same. In no event shall Bank be liable for incidental, indirect, special, consequential or punitive damages (including, but not limited to lost profits), even if Bank has been advised of the likelihood of such loss or damage and regardless of the form of action. Bank shall not be obligated to take any legal action or commence any proceeding in connection with the Funds, any account in which Funds are deposited, or this Agreement, or to appear in, prosecute or defend any such legal action or proceeding or to take any other action that in Bank's sole judgment may expose it to potential expense or liability. Bank shall not be responsible or liable in any manner for the performance by any party of their respective obligations under any other agreement. Bank may consult legal counsel selected by it in the event of any dispute or question as to the construction of any of the provisions hereof or of any other agreement or of its duties hereunder, or relating to any dispute involving any party hereto, and shall incur no liability and shall be fully indemnified from any liability whatsoever in acting in accordance with the opinion or instruction of such counsel. Depositor shall promptly pay, upon demand, the reasonable fees and expenses of any such counsel.

Bank is authorized, in its sole discretion, to comply with orders issued or process entered by any court with respect to the Funds, without determination by Bank of such court's jurisdiction in the matter.

If any portion of the Funds is at any time attached, garnished or levied upon under any court order, or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court affecting such property or any part thereof, then and in any such event, Bank is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel selected by it is binding upon it without the need for appeal or other action; and if Bank complies with any such order, writ, judgment or decree, it shall not be liable to any of the parties hereto or to any other person or entity by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

9. Indemnification of Bank. From and at all times after the date of this Agreement, Depositor shall, to the fullest extent permitted by law, defend, indemnify and hold harmless Bank and each director, officer, employee, attorney, agent and affiliate of Bank (each, an "Indemnified Party") against any and all actions, claims (whether or not valid), losses, damages, liabilities, costs and expenses of any kind or nature whatsoever (including without limitation reasonable attorneys' fees, costs and expenses) incurred by or asserted against any Indemnified Party from and after the date hereof, whether direct, indirect or consequential, as a result of or arising from or in any way relating to any claim, demand, suit, action or proceeding (including any inquiry or investigation) by any person, including without limitation Depositor, whether threatened or initiated, asserting a claim for any legal or equitable remedy against any person under any statute or regulation, including, but not limited to, any federal or state securities laws) or under any common law or equitable cause or otherwise, arising from or in connection with the negotiation, preparation, execution, performance or failure of performance of this Agreement or any transactions contemplated herein, whether or not any such Indemnified Party is a party to any such action, proceeding, suit or the target of any such inquiry or investigation: *provided, however*, that no Indemnified Party shall have the right to be indemnified hereunder for any liability finally determined by a court of competent jurisdiction, which determination is not subject to appeal, to have resulted solely from the gross negligence or willful misconduct of such Indemnified Party. Depositor further agrees to indemnify each Indemnified Party for all costs, including without limitation reasonable attorney's fees, incurred by such Indemnified Party in connection with the enforcement of Depositor's indemnification obligations hereunder. Each Indemnified Party shall, in its sole discretion, have the right to select and employ separate counsel with respect to any action or claim brought or asserted against it, and the reasonable fees of such counsel shall be paid upon demand by the Depositor. The obligations of Depositor under this Section 9 shall survive any termination of this Agreement and the resignation or removal of Bank.

10. Compensation to Bank.

a. Fees and Expenses. Depositor shall compensate Bank for its services hereunder in accordance with Schedule A attached hereto and, in addition, shall reimburse Bank for all of its reasonable out-of-pocket expenses, including attorneys' fees, travel expenses, telephone and facsimile transmission costs, postage (including express mail and overnight delivery charges), copying charges and the like. The additional provisions and information set forth in Schedule A are hereby incorporated by this reference, and form a part of this Agreement. All of the compensation and reimbursement obligations set forth in this Section 10 shall be payable by Depositor upon demand by Bank. The obligations of Depositor under this Section 10 shall survive any termination of this Agreement and the resignation or removal of Bank.

b. Disbursements from Funds to Pay Bank. Bank is authorized to, and may, disburse to itself from the Funds, from time to time, the amount of any compensation and reimbursement of out-of-pocket expenses due and payable hereunder (including any amount to which Bank is entitled to seek indemnification pursuant to Section 9 hereof).

c. Security and Offset. Depositor hereby grants to Bank and the Indemnified Parties a security interest in and lien upon the Funds to secure all obligations hereunder, and Bank and the Indemnified Parties shall have the right to offset the amount of any compensation or reimbursement due any of them hereunder (including any claim for indemnification pursuant to Section 9 hereof) against the Funds. If for any reason the Funds available to Bank and the Indemnified Parties pursuant to such security interest or right of offset are insufficient to cover such compensation and reimbursement, Depositor shall promptly pay such amounts to Bank and the Indemnified Parties upon receipt of an itemized invoice.

11. Representations and Warranties. Depositor makes the following representations and warranties to Bank:

- (i) It is duly organized, validly existing, and in good standing under the laws of the state of Texas, and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder.
- (ii) This Agreement has been duly approved by all necessary action has been executed by its duly authorized officers, and constitutes its valid and binding agreement enforceable in accordance with its terms.
- (iii) The execution, delivery, and performance of this Agreement will not violate, conflict with, or cause a default under its articles of incorporation, articles of organization, bylaws or other organizational document, as applicable, any applicable law or regulation, any court order or administrative ruling or decree to which it is a party or any of its property is subject, or any agreement, contract, indenture.
- (iv) The applicable persons designated on Schedule B hereto have been duly appointed to act as its representatives hereunder and have full power and authority to execute and deliver any Written Direction, to amend, modify or waive any provision of this Agreement and to take any and all other actions under this Agreement, all without further consent or direction from, or notice to, it or any other party.
- (v) No party other than the parties hereto has, or shall have, any lien, claim or security interest in the Funds or any part thereof. No financing statement under the Uniform Commercial Code is on file in any jurisdiction claiming a security interest in or describing (whether specifically or generally) the Funds or any part thereof.
- (vi) All of its representations and warranties contained herein are true and complete as of the date hereof and will be true and complete at the time of any disbursement of the Funds.

12. Patriot Act/Identifying Information. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a nonindividual person such as a business entity, a charity, a trust, or other legal entity, Bank requires documentation to verify its formation and existence as a legal entity. Bank may ask to see financial statements, licenses, or identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation. The Depositor acknowledges that a portion of the identifying information set forth herein is being requested by Bank in connection with the USA Patriot Act, Pub. L. 107-56 (the "Act"), and agrees to provide any additional information requested by Bank in connection with the Act or any other legislation or regulation to which Bank is subject, in a timely manner. The Depositor represents

that all identifying information set forth on Schedule A or otherwise provided to Bank, including without limitation, its Taxpayer Identification Number assigned by the Internal Revenue Service or any other taxing authority, is true and complete on the date hereof and will be true and complete at the time of any disbursement of the Funds.

13. Consent to Jurisdiction and Venue. In the event that any party hereto commences a lawsuit or other proceeding relating to or arising from this Agreement, the parties hereto agree that the U.S. District Court for the Western District of Texas shall have jurisdiction over any such proceeding. If such court lacks federal subject matter jurisdiction, the parties agree that the Rockwall County District Court shall have jurisdiction. Any of these courts shall be proper venue for any such lawsuit or judicial proceeding and the parties hereto waive any objection to such venue. The parties hereto consent to and agree to submit to the jurisdiction of any of the courts specified herein and agree to accept service of process to vest personal jurisdiction over them in any of these courts.

14. Notice. All notices, approvals, consents, requests, and other communications hereunder shall be in writing (provided that each such communication to Bank must be manually signed by the sender) and shall be deemed to have been given when the writing is delivered if given or delivered by hand, overnight delivery service or facsimile transmitter (with confirmed receipt) to the address or facsimile number set forth on Schedule A hereto, or to such other address as each party may designate for itself by like notice, and shall be deemed to have been given on the date deposited in the mail, if mailed, by first-class, registered or certified mail, postage prepaid, addressed as set forth on Schedule A hereto, or to such other address as each party may designate for itself by like notice.

15. Amendment, Waiver and Assignment. This Agreement may be changed, waived, discharged or terminated only by a writing signed by the parties hereto. No delay or omission by any party in exercising any right with respect hereto shall operate as a waiver. A waiver on any one occasion shall not be construed as a bar to, or waiver of, any right or remedy on any future occasion. Except as provided in Section 19, this Agreement may not be assigned by any party without the written consent of the other party.

16. Severability. To the extent any provision of this Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

17. Governing Law. This Agreement shall be construed and interpreted in accordance with the internal laws of the State of Texas without giving effect to the conflict of laws principles thereof.

18. Entire Agreement. This Agreement constitutes the entire agreement between the parties relating to the holding, investment and disbursement of the Funds and sets forth in their entirety the obligations and duties of Bank with respect to the Funds. Nothing in this Agreement, express or implied, is intended to or shall confer upon any person other than the signatory parties hereto and the Indemnified Parties any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

19. Binding Effect: Successors. All of the terms of this Agreement, as amended from time to time, shall be binding upon, inure to the benefit of and be enforceable by the respective successors and assigns of Depositor and Bank. If Bank consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business (including the account contemplated by this Agreement) to another entity, the successor or transferee entity without any further act shall be the successor Bank.

20. Execution in Counterparts. This Agreement and any Written Direction may be executed in two or more counterparts, which when so executed shall constitute one and the same agreement or

direction. The exchange of copies of this Agreement and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile shall be deemed to be their original signatures for all purposes.

21. Termination. Upon the first to occur of the termination of the Period, the disbursement of all amounts in the Funds pursuant to Written Directions or the disbursement of all amounts in the Funds into court pursuant to Section 5 or Section 8 hereof, this Agreement shall terminate, Bank shall be released from its obligations hereunder and Bank shall have no further liability with respect to the Funds, this Agreement, or any action or refusal to take action hereunder.

22. Dealings. Bank and any stockholder, director, officer or employee of Bank may buy, sell, and deal in any of the securities of the Depositor and become financially interested in any transaction in which Depositor may be interested, and contract and lend money to the Depositor and otherwise act as fully and freely as though it were not acting as the depositary bank under this Agreement. Nothing herein shall preclude Bank from acting in any other capacity for the Depositor or for any other person or entity.

23. Optional Security Procedures. In the event funds transfer instructions, address changes or change in contact information are given (other than in writing at the time of execution of this Agreement), whether in writing, by facsimile or otherwise, Bank is authorized but shall be under no duty to seek confirmation of such instructions by telephone call-back to the person or persons designated on Schedule B hereto, and Bank may rely upon the confirmation of anyone purporting to be the person or persons so designated. The persons and telephone numbers for call-backs may be changed only in writing actually received and acknowledged by Bank and shall be effective only after Bank has a reasonable opportunity to act on such changes. If Bank is unable to contact any of the designated representatives identified in Schedule B, Bank is hereby authorized but shall be under no duty to seek confirmation of such instructions by telephone call-back to any one or more of Depositor's executive officers ("Executive Officers"), as the case may be, which shall include the titles of President, Vice President, Secretary, Treasurer, Executive Manager, and Program and Project Manager as Bank may select. Such Executive Officer shall deliver to Bank a fully executed incumbency certificate, and Bank may rely upon the confirmation of anyone purporting to be any such officer. Depositor agrees that Bank may at its option record any telephone calls made pursuant to this Section. Bank in any funds transfer may rely solely upon any account numbers or similar identifying numbers provided by Depositor to identify (a) the beneficiary, (b) the beneficiary's bank, or (c) an intermediary bank. Bank may apply any of the Funds for any payment order it executes using any such identifying number, even when its use may result in a person other than the beneficiary being paid, or the transfer of funds to a bank other than the beneficiary's bank or an intermediary bank designated. Depositor acknowledges that these optional security procedures are commercially reasonable.

24. WAIVER OF TRIAL BY JURY. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, THE PARTIES HEREBY WAIVE, AND COVENANT THAT THEY WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING IN WHOLE OR IN PART UNDER OR IN CONNECTION WITH THIS AGREEMENT, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE ITS RIGHT TO TRIAL BY JURY IN ANY PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT OR ANY OF THE CONTEMPLATED TRANSACTIONS WILL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

25. Tax Reporting. Depositor agrees to assume all obligations imposed now or hereafter by any applicable tax law or regulation with respect to payments or performance under this Agreement. Upon Bank's request, Depositor shall provide Bank with a Form W-9 or Form W-8, as applicable, for each payee, together with any other documentation and information requested by Bank in connection with Bank's reporting obligations under the United States Internal Revenue Code and related regulations (the "Code"). If such tax documentation is not so provided, Bank is authorized to withhold taxes as required by the Code. Depositor shall accurately provide Bank with all information requested by Bank in connection with the preparation of all applicable Form 1099 and Form 1042-S documents with respect to all distributions as well as in the performance of Bank's reporting obligations under the Foreign Account Tax Compliance Act or other applicable law or regulation. To the extent that the Bank becomes liable for the payment of any taxes in respect of income derived from the investment of the Funds, the Bank shall satisfy such liability to the extent possible from the Funds. To the extent permitted by law, Depositor shall indemnify, defend and hold the Bank harmless from and against any tax, late payment, interest, penalty or other cost or expense that may be assessed against the Bank on or with respect to the Funds and the investment thereof unless such tax, late payment, interest, penalty or other expense was directly caused by the gross negligence or willful misconduct of the Bank. The indemnification provided by this Section 25 is in addition to the indemnification provided in Section 9 and shall survive the resignation or removal of the Bank and the termination of this Deposit Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

CITY OF MCLENDON-CHISHOLM

By: _____
Title: _____

WILMINGTON TRUST, NATIONAL ASSOCIATION

By: _____
Title: _____

SCHEDULE A

1. Account.

Wilmington Trust, National Association

[ABA#

ATTN:

Re: [PID Assessment Account, #]

2. Bank Fees.

Acceptance Fee	\$
Annual Fee	\$ 750.00
Out-of-Pocket Expenses	\$
[Transactional Costs]	\$
[Other Fees/Attorney, etc.]	\$
TOTAL	\$ 750.00

The Acceptance Fee and the Annual Fee are payable upon execution of the agreement. In the event the account is not funded, the Acceptance Fee and all related expenses, including attorneys' fees, remain due and payable, and if paid, will not be refunded. Annual fees cover a full year in advance, or any part thereof, and thus are not pro-rated in the year of termination.

The fees quoted in this schedule apply to services ordinarily rendered in the administration of an account and are subject to reasonable adjustment based on final review of documents, or when Bank is called upon to undertake unusual duties or responsibilities, or as changes in law, procedures, or the cost of doing business demand. Services in addition to and not contemplated in this Agreement, including, but not limited to, document amendments and revisions, non-standard cash and/or investment transactions, calculations, notices and reports, and legal fees, will be billed as extraordinary expenses.

Unless otherwise indicated, the above fees relate to the establishment of one account. Additional sub-accounts governed by the same Agreement may incur an additional charge. Transaction costs include charges for wire transfers, checks, internal transfers and securities transactions.

3. Taxpayer Identification Numbers.

Depositor:

4. Termination and Disbursement. Unless earlier terminated by the provisions of the Agreement, the Period will terminate upon the termination of the respective PIDs as provided by Depositor in writing to the Bank. Any Funds remaining on such date shall be distributed to Depositor.

5. Notice Addresses.

If to Depositor, at:

City of McLendon-Chisholm
1371 West FM 550
McLendon-Chisholm, TX 75032
Attn: Lisa Palomba, City Administrator
Michael Halla, City Attorney
Telephone: (972) 524-2077
Facsimile: (972) 524-9128

If to Bank, at:

Wilmington Trust, National Association
Corporate Client Services
15950 N. Dallas Parkway, Suite 550
Dallas, Texas 75248
Attn: Dayna L. Smith
Telephone: (972) 383-3154
Facsimile: (972) 385-0844

Bickerstaff Heath Delgado Acosta LLP
3711 S. MoPac Expy., Building 1, Suite 300, Austin, Texas 78746

ENGAGEMENT AGREEMENT

This agreement sets forth the standard terms of our engagement as your attorneys. Unless modified in writing by mutual agreement, these terms will be an integral part of our agreement with you. Therefore, we ask that you review this agreement carefully and contact us promptly if you have any questions. Please retain this agreement in your file.

Identity of Client. We will be representing the interests of the City of McLendon-Chisholm.

Attorneys. Bickerstaff Heath Delgado Acosta LLP is engaged by you as your attorneys, and I, Emily Rogers, will be the partner who will coordinate and supervise the services we perform on your behalf. We routinely delegate selected responsibilities to other persons in our Firm when, because of special expertise, time availability or other reasons, they are in a better position to carry them out. In addition, we will try, where feasible and appropriate, to delegate tasks to persons who can properly perform them at the least cost to you.

The Scope of Our Work. You should have a clear understanding of the legal services we will provide. We will provide services related only to matters as to which we have been specifically engaged. Although in the future we may from time to time be employed on other matters, our present relationship is limited to representing the above-named client in the matters described in Exhibit A. We will at all times act on your behalf to the best of our ability. Any expressions on our part concerning the outcome of your legal matters are expressions of our best professional judgment, but are not guarantees. Such opinions are necessarily limited by our knowledge of the facts and are based on the state of the law at the time they are expressed. We cannot guarantee the success of any given matter, but we will strive to represent your interests professionally and efficiently.

Fees for Legal Services. Our charges for professional services are customarily based on the time devoted to the matter, the novelty and difficulty of the questions presented, the requisite experience, reputation and skill required to deal with those questions, time limitations imposed by the circumstances, and the amount involved and the results obtained. Unless otherwise indicated in writing, our fees for legal services are determined on the basis of the hourly rates of the respective lawyers and other timekeepers who perform the services. These rates vary depending on the expertise and experience of the individual. We adjust these rates annually, increasing them to reflect experience, expertise, and current economic conditions. We will notify you in writing if this fee structure is modified. The initial agreed billing rates for attorneys and other timekeepers engaged on your work are attached as Exhibit B.

Other Charges. All out-of-pocket expenses (such as copying charges, travel expenses, messenger expenses, filing and other court costs, and the like) incurred by us in connection with our representation of you will be billed to you as a separate item on your statement. A description of the most common expenses is included as Exhibit C and agreed to as part of this agreement.

Billing Procedures and Terms of Payment. Our billing period begins on the 16th of the month and ends on the 15th of the following month. We will render periodic invoices to you for legal services and expenses. We usually mail these periodic invoices on or before the last day of the month following the latest date covered in the statement. Each invoice is due upon receipt, must be paid in U.S. Dollars, and is considered delinquent if not paid in full within 30 days of its stated date. Payment must be made to the Firm at 3711 S. MoPac Expressway, Building One, Suite 300, Austin, Texas, 78746. We will include all information reasonably requested by you on all invoices and will reference any purchase order number provided by you. Payment and interest, if any, will comply with the Prompt Payment Act (Texas Government Code Chapter 2251), if applicable, for any final invoices. If you have any question or disagreement about any invoice that we submit to you for payment, please contact me at your earliest convenience so that we can resolve any problems without delay. Typically, such questions or disagreements can be resolved to the satisfaction of both sides with little inconvenience or formality.

Termination of Services. You have the right at any time to terminate our employment upon written notice to us, and if you do we will immediately cease to render additional services. We reserve the right to discontinue work on pending matters or terminate our attorney-client relationship with you at any time that payment of your account becomes delinquent, subject to Court approval if necessary. In the event that you fail to follow our advice and counsel, or otherwise fail to cooperate reasonably with us, we reserve the right to withdraw from representing you upon short notice, regardless of the status of your matter. No termination, whether by you or by us, will relieve you of the obligation to pay fees and expenses incurred prior to such termination.

Retention of Documents. Although we generally attempt to retain for a reasonable time copies of most documents in the possession of this Firm related to the matter(s) described in Exhibit A, we are not obligated to do so indefinitely, and we hereby expressly disclaim any responsibility or liability for failure to do so. We generally attempt to furnish copies of all documents and significant correspondence to you at the time they are created or received, and you agree to retain all originals and copies of documents you desire among your own files for future reference. This document serves as notice to you that we will destroy such materials in accordance with the Firm's record retention policy, which may be amended from time to time and a copy of which will be provided at your request. It is our Firm's policy to destroy all copies, whether in paper or electronic form, of materials in connection with the representation seven (7) years after the completion of our work relating to this engagement or the completion of a particular project under this engagement, unless and to the extent an exception recognized in our document retention policy or other legal requirement applies to some or all of the subject materials and requires retention for a longer period of time. The Firm also reserves the discretion to retain its records of pertinent documents relating to its ongoing representation of a client, e.g. in a general counsel capacity. If you would like to obtain copies of materials in the Firm's possession related to this matter prior to the scheduled destruction of the materials, please notify the Firm. Because you will have been furnished with copies of all relevant materials contained in our files during the course of the active phase of our representation, if you later ask us to retrieve and deliver materials contained in a file that has been closed, you agree that we will be entitled to be paid a reasonable charge for the cost of retrieving the file, and identifying, reproducing, and delivering the requested materials to you.

Fee Estimates. We are often requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter. Our attorneys do their best to estimate fees and expenses for particular matters when asked to do so. However, an estimate is just that, and the fees and expenses required are ultimately a function of many conditions over which we have little or no control, especially in litigation or negotiation situations where the extent of necessary legal services may depend to a

significant degree upon the tactics of the opposition. Unless otherwise agreed in writing with respect to a specific matter, all estimates made by us will be subject to your agreement and understanding that such estimates do not constitute maximum or fixed-fee quotations and that the ultimate cost is frequently more or less than the amount estimated.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, United States of America, without giving effect to its choice of laws provisions. Venue of any case or controversy arising under or pursuant to this Agreement will be exclusively in Travis County, Texas, United States of America.

Standards of Professionalism and Attorney Complaint Information. Pursuant to rules promulgated by the Texas Supreme Court and the State Bar of Texas, we hereby advise you that the State Bar of Texas investigates and prosecutes complaints of professional misconduct against attorneys licensed in Texas. Information on the grievance procedures is available from the State Bar of Texas, and any questions you have about the disciplinary process should be addressed to the Office of the General Counsel of the State Bar of Texas, which you may call toll free at 1-800-932-1900.

Questions. If you have any questions from time to time about any aspect of our arrangements, please feel free to raise those questions. We want to proceed in our work for you with your clear and satisfactory understanding about every aspect of our billing and payment policies; and we encourage an open and frank discussion of any or all of the matters addressed in this agreement.

Acceptance of Terms. If this arrangement is acceptable to you and the City, please sign the enclosed duplicate original of this agreement and return it and the required retainer to us at your earliest convenience. We truly appreciate the opportunity to be of service to you and look forward to working with you in a mutually beneficial relationship.

AGREED TO AND ACCEPTED

CITY OF MCLENDON-CHISHOLM

BICKERSTAFF HEATH DELGADO ACOSTA LLP

By: _____
Lisa Palomba, City Administrator

By: Emily W. Rogers
Emily Rogers

Date: _____

Date: December 3, 2019

cc: Billing Department

Exhibit A — Scope of Services
Bickerstaff Heath Delgado Acosta LLP

While we agree that in the future we may from time to time be employed on other matters, this agreement provides that our relationship is limited to representing and counseling you in connection with the following:

- Legal services related to water supply and sewer service issues
- Other legal services assigned or requested, only if the scope of which is confirmed by you in writing at the time of assignment

Other legal services not assigned or requested, and confirmed in writing, are specifically not within the scope of our representation.

Exhibit B — Billing Rates
Bickerstaff Heath Delgado Acosta LLP

TIMEKEEPER	2019 BILLING RATE
Acosta, Alex	\$380
Arnold, Philip	\$285
Caputo, Cobby	\$370
Caroom, Doug	\$380
Cheney, Denise	\$355
Dugat, Bill	\$340
Falk, Syd	\$395
Gonzalez, Vanessa	\$325
Heath, Bob	\$435
Katz, Joshua	\$310
Kimbrough, Chuck	\$280
Lumpkin, Katy	\$290
Maxwell, Susan	\$325
Mendez, David	\$380
Mendez, Manuel	\$380
Rogers, Emily	\$325
Russell, Claudia	\$325
Seaquist, Gunnar	\$310
Than, Catherine	\$325
Weller, Steven	\$325
Kelley, Kimberly	\$210
Miller, Gregory	\$260
Olds, Daniel	\$235
Robinson, Lori	\$255
Delgado, Hector	\$380
Legal Assistants/Specialists	\$190
McCall, Sherry	\$190

Exhibit C—Client Costs Advanced
Bickerstaff Heath Delgado Acosta LLP

The firm incurs expenses on behalf of clients only when required by the legal needs of the clients. Some cases or matters require extensive use of outside copy facilities, and other cases may not be so paper-intensive. Standard services handled within the firm are not charged, and client specific expenses are billed to the client needing those services. An explanation of the billing structure is as follows:

Not Charged

Secretarial and word processing time, routine postage, file setup, file storage, local or ordinary long distance charges, fax charges, and computerized legal research data charges.

Delivery Services

Outside delivery services are used for pickup and delivery of documents to the client as well as to courts, agencies, and opposing parties. Outside delivery fees are charged to the client at the rate charged to the firm. Overnight delivery services are also charged at the rate charged to the firm. Firm Office Services Department personnel may provide delivery service in urgent situations and charges for such in-house service will not exceed the charge that would be made by an outside service in a similar situation.

Postage

Our postal equipment calculates exact U.S. postage for all sizes and weights of posted material. The rate charged for postage is the same as the amount affixed to the material that is mailed. We will not charge clients for postage on routine correspondence; however, the cost of large-volume mail, certified mail, or other additional mail services will be charged to the client.

Copies and Prints

Our standard rate for black and white copies and prints made by firm personnel is \$0.15 per page. Color copies and prints are charged at a standard rate of \$0.55 per page. These charges cover paper, equipment costs, and other supplies. If savings can be realized within the required time frame by sending copy jobs to subcontractors, the firm uses only qualified legal services copiers and the cost charged to the client is the same as the amount billed to the firm.

Phone Charges

Only charges for conference calls or international calls are charged, and charges are billed at the same amount billed to the firm by the outside provider.

Travel

Attorney and other timekeeper time spent traveling on behalf of a client is billed to the client. Hotel, meals, local transportation, and similar expenses are charged based on receipts and travel expense forms submitted by the attorney. Documentation is available to the client if requested.

Maps

Maps produced in conjunction with a project will be billed at \$50 for each 34 x 44 inch map and \$20 for each smaller map, plus cost (time fees) for preparation.

Other Expenses

Expenses incurred with outside providers in connection with the client's legal services will be paid by the client directly to the outside provider unless specifically arranged in advance. If the firm agrees to pay outside providers, the cost charged to the client is the same as the amount billed to the firm. Examples of such charges include: court reporter fees, filing fees, newspaper charges for publication notices, expert witness fees, consultants and other similar expenses.

Exhibit D—Verification Required by Texas Government Code Chapter 2270
Bickerstaff Heath Delgado Acosta LLP

By signing below, Bickerstaff Heath Delgado Acosta LLP hereby verifies the following:

1. The Firm does not boycott Israel; and
2. The Firm will not boycott Israel during the term of this Engagement Agreement.

SIGNED BY:



Emily Rogers
December 3, 2019

This Verification is incorporated and made a part of the Engagement Agreement between the Bickerstaff Heath Delgado Acosta LLP and the City.

*Resolution No. 2020-
Approved 03/10/2020*

**CITY OF McLENDON-CHISHOLM, TEXAS
RESOLUTION NO. 2020-**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF McLENDON-CHISHOLM, TEXAS ADOPTING AND APPROVING PERSONNEL POLICIES, RESCINDING PRIOR PERSONNEL POLICIES AND MANUALS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of McLendon-Chisholm, Texas (the “City”) is authorized to establish policies, not in conflict or otherwise inconsistent with State or Federal laws, relating to the terms and conditions of employment by the City; and

WHEREAS, the City Council has interests and expectations concerning those employed by the City which, in addition to other means, are communicated to City employees through City Personnel Policies; and

WHEREAS, the City Council has updated and revised its Personnel Policies affecting the terms and conditions of employment by the City; and

WHEREAS, the City Council finds and determines it is in the best interests of the City, its citizens and its employees that the updated and revised Personnel Policies attached to this Resolution as Exhibit 1 be adopted and approved.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF McLENDON-CHISHOLM, TEXAS:

SECTION 1: The recitals set forth in the WHEREAS clauses of this Resolution are true and correct, constitute findings and determinations by the City Council and are incorporated herein.

SECTION 2: That unless otherwise provided for by the Constitution of the United States, the Constitution of the State of Texas, the statutes of the United States or State of

Texas, or City Ordinances, the Personnel Policies attached hereto as Exhibit 1 and incorporated herein for all purposes, are hereby adopted and approved by reference.

SECTION 3: Should any sentence, paragraph, subdivision, clause, phrase or section of the Personnel Policies attached hereto as Exhibit 1 be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of the remaining provisions of the Personnel Policies as a whole or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Personnel Policies as a whole.

SECTION 4: All Personnel Policies of the City previously adopted and in conflict with any of the Personnel Policies attached hereto as Exhibit 1 are hereby rescinded.

SECTION 5: That this Resolution shall become effective March 10, 2020.

DULY PASSED AND APPROVED THIS THE 10th DAY OF MARCH 2020.

Keith Short, Mayor

ATTEST:

Shelly Green, City Secretary

~ 2 ~

City of McLendon-Chisholm
Personnel Policies



Adopted October 9, 2018

Proposed Revisions 2/19/2020

APPLICATION OF POLICIES

The Handbook policies shall apply to all City employees, provided that the provisions may be varied in the case of an employee with a written employment agreement approved by the City Council. All employees must become familiar with and abide by these policies. New employees must complete an Acknowledgement of Employee Handbook form indicating they have received the Employee Handbook and understand it is the employee's responsibility to read and comply with all policies and procedures. Signed Acknowledgement forms will be placed in each employee's personnel file.

Fire and Police personnel are subject to additional departmental policies, procedures and statutory requirements.

The City Council reserves the right to interpret, change, suspend, or cancel, with or without notice, all or any part of these policies, or procedures contained herein. Any revisions to the Employee Handbook will be provided to employees. Employees will complete an Acknowledgement of Receipt. -

AMENDMENT OF POLICIES

Amendments **of substance** to the Employee Handbook must be approved by resolution of the City Council. The City Administrator is responsible for the implementation of the personnel policies. This handbook has been approved by the City Council of the City of McLendon-Chisholm, Texas. Amendments of substance require approval by the City Council.

~~This handbook has been approved by the City Council of the City of McLendon-Chisholm, Texas. Amendments of substance require approval by the City Council.~~

General and final authority for personnel administration rests with the City Administrator, with the exception of matters reserved to the City Council by state law or City Ordinance. Authority may be delegated to appropriate staff members to act **on** the City Administrator's behalf in the administration of this Handbook. However, the final authority on personnel decisions shall be reserved to the City Administrator. Operational changes to any policy, practice, or process will require approval by the City Administrator.

No City of McLendon-Chisholm supervisor is authorized to modify this Handbook for any employee or to enter into any agreement, oral or written.

Only tThe City Council may choose to enter into an Employment Agreement with Council appointed personnel.

RECRUITMENT AND SELECTION

The City hires employees based on their knowledge, skills and abilities, experience, and other qualifications as they relate to the duties and responsibilities of a position without regard to race, national origin, religion, color, **sex**, **gender**, age, citizenship, political affiliation, disability, genetics, veteran's status, **sexual orientation**, or any other characteristic protected by law. It is the desire and intent of management to provide promotional opportunities for employees of the City by offering assistance to interested employees in developing career plans and making applicable training and educational opportunities available.

Recruitment Requirements. The recruitment process is initiated by a Department Director submitting a request to fill a vacancy of a budgeted position to the City Administrator be communicated by the Department Director or City Administrator upon receipt of the hiring recommendation and all related paperwork.

The recruitment method for vacant director level positions may be determined by the City Administrator on a case by case basis except those positions appointed by City Council.

City Council appointed vacancies may be filled by internal or external applicants as determined appropriate by Council on a case-by-case basis.

Applications. Anyone seeking employment, promotion, transfer, or reemployment with the City must complete and submit an official City application for the position desired. Current City employees should also write a letter of interest to their Department Director indicating the desired position. All information set forth on an application is subject to verification. Applications will normally be considered active until the vacancy is filled. Applications for employment will be considered by the City Administrator and Department Director as applicable.

Hiring Process. Applicants for employment shall be required to submit to an oral interview and may be required to submit to a post-offer physical examination, drug and alcohol screening, and may be required to submit to pre-employment testing and investigation.

Disqualification. Applicants will be disqualified from consideration for one or more of the following:

- Failure to meet the minimum qualifications necessary for performance of the duties for the position;

- If they previously worked for the City and were involuntarily terminated, or resigned in lieu of termination;
- If employment will result in a violation of the City's Nepotism Policy;
- Failure to meet minimum age requirement of 17; or for Fire and Police personnel applicant's failure to meet the state mandated age requirement for licensing.
- False statements or material omissions on the application form or during the application process;
- Failing any of the City's background and employment requirements including, but not limited to, drug/alcohol testing;
- The applicant commits or attempts to commit a fraudulent act at any stage of the selection process;
- The applicant is not legally permitted to work in the United States;
- The applicant is unable to perform the essential functions of the job applied for with or without a reasonable accommodation; or
- Any other reason deemed to be in the best interests of the City.

NEPOTISM

In order to prevent conflicts of interest, to avoid accusations or perceptions of favoritism and bias and to maintain the confidentiality of restricted information, it is the policy of the City that:

(A) Applicants

- An applicant related to the City Administrator by blood or marriage within the second degree according to Chapter 573 of the Texas Government Code shall not be employed by the City.
- An applicant related by blood or marriage within the second degree according to Chapter 573 of the Texas Government Code to any member of the City Council shall not be employed by the City.
- Under no circumstances will an applicant be employed in a department in which the employee may directly or indirectly supervise or be supervised by a member of the employee's immediate family. "Immediate family" includes spouse, parents, children, brother or sister.

First Degree:	Mother Father Son Daughter	(or) in-law
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Second Degree:	Brother Sister Grandfather Grandmother Granddaughter Grandson	(or) in-law
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(B) Promotion

In the event of a proposed promotion of a current employee to a position where the employee would be required to directly or indirectly supervise or be supervised by a member of the employee's immediate family (see definition above), any employed family member of a person considered for promotion must agree to immediately tender written, conditional resignation before the candidate will be formally considered for the proposed promotion. If the candidate is selected for and chooses to accept the promotion, the conditional resignation becomes final. Normally, once final, any such resignation will not become effective until ninety (90) days after the promotion takes effect.

(C) Reorganization

In the event of a reorganization, or any other situation (other than a promotion) giving rise to a relationship prohibited by this section of the policy, the lower ranking employee will be required to immediately resign employment. If both employees are of an equal rank, one of them will be required to immediately resign employment. In the event that the employees do not decide which will resign, the employee with the least seniority will be deemed to have resigned. Normally, any such resignation will not be effective until ninety (90) days after the engagement, reorganization, etc., occurs.

(D) Other Restrictions

The following restrictions apply on the employment of any relative, including those defined as family members under this policy:

- No employee in the relationship will supervise, review or process the work of the other;
- The employees' relationship must not create a conflict between employees/ City interests; and
- There must be no interdependence or relationship between the jobs of the individuals concerned which could be potentially detrimental to the interests of the City.

Relatives will not normally be permitted to work in the same department with each other without prior written authorization from the City Administrator (or designee). In addition, written authorization must also be obtained from the City Administrator (or designee) to employ any relative of a current City employee.

(E) Marriage of Current Employees

In the event of a marriage between two City employees, a promotion, reorganization, or any other situation giving rise to a relationship prohibited by Subsection B of this policy, one or both of the affected employees must immediately seek a transfer to another available position within the City for which the employee is qualified and that meets the requirements of Subsection B of this policy. If a suitable transfer cannot be made within ninety (90) days of the event giving rise to a relationship prohibited by this policy, one or both of the affected employees will be required to resign from employment.

(F) Periodic Review

Periodically, the City Administrator (or designee) will review the job descriptions and interrelationship between the affected jobs and determine whether they are in compliance with this policy. If one or more of these requirements are not met, one or both of the affected employees must immediately seek a transfer to another available position within the City for which he or she is qualified and that meets the requirements of this policy. If a suitable transfer cannot be made within ninety (90) days, one or both of the affected employees will be required to resign from employment.

(G) Application of Policy

This policy applies to all full-time, regularly scheduled part-time and temporary seasonal employees of the City. This policy does not apply to volunteers including fire department volunteers who may receive a minimal stipend for service or irregularly scheduled part-time employees. Relatives of Council Members may volunteer for special events and may serve on the fire department as a volunteer or irregularly scheduled part-time employee.

(H) Definitions

Full-time Employee – An employee working 30 hours or more per week and who is eligible for benefits.

Part-time Regularly Scheduled Employee – An employee working less than 30 hours per week but who is assigned and expected to work a consistent schedule and who may receive benefits depending on number of hours worked. Example: An employee who is assigned to work every Monday – Friday 9 am to 1 pm.

Part-time Irregularly Scheduled/Seasonal Employee – An employee working less than 30 hours per week but who works only as needed and assigned by a supervisor. Part-time irregularly scheduled employees are not guaranteed hours and are not eligible for benefits.

Volunteer – Any person who is performing a service for the city and who is unpaid or receives only a small stipend or reimbursement for expenses.

AMERICANS WITH DISABILITIES ACT

To ensure compliance with the Americans with Disabilities Act (ADA) and Americans with Disabilities Act as Amended (ADAAA), the City offers equal employment opportunity to qualified individuals and strictly prohibits discrimination against qualified individuals on the basis of disability.

The City will provide reasonable accommodation to the known physical or mental impairments of an otherwise qualified individual with a disability if such reasonable accommodation will enable the individual to perform the essential functions of the position. The City's obligation under this policy is limited to providing reasonable accommodations that will not result in undue hardship to the City.

Any employee seeking a reasonable accommodation for a disability that affects the employee's ability to perform the essential functions of the position shall make a written application on a form provided by the City Administrator.

Employees who have a complaint involving potential violations of the Americans with Disabilities Act or ADAAA, including but not limited to harassment, discrimination, or failure to provide a reasonable accommodation, must immediately contact the immediate Supervisor or the City Administrator.

EQUAL EMPLOYMENT OPPORTUNITY

The City is an equal opportunity employer. Discrimination against any person in recruitment, examination, selection, appointment, rate of pay, promotion and transfer, retention, daily working conditions, training, awards, compensation and benefits, disciplinary measures or any other aspect of employment because of age, race, color, religion, ~~sex~~gender, national origin, disability, genetics, veteran's status, sexual orientation, or other unlawful basis, is prohibited.

AT-WILL EMPLOYMENT

Employment with the City is for no fixed or definite term. All employment by the City has been and continues to be at-will, except for those positions that may have a written contract approved by the City Council. That means that both the employee and/or the City have the right to terminate employment at any time, with or without notice, and with or without cause. This Employee Handbook does not constitute a contract of employment. Nothing in this handbook is intended to alter the continuing at-will status of employment with the City. Nothing contained in a City Ordinance or Resolution constitutes a contract of employment, and the City Council has the right to change the content of City Ordinances or Resolutions related to employment matters at any time, with or without notice, and with or without cause.

PROBATIONARY PERIOD

All new employees hired to fill regular full-time or part-time positions must satisfactorily complete an initial performance probationary period of 6 months from date of hire.

Additionally, all current employees who are transferred, promoted, demoted, or reclassified to a supervisory position, as well as former City employees who are rehired, must satisfactorily complete a performance probationary period of 6 months. The probationary period assists the City in maintaining an effective, productive, and efficient workforce to provide quality services to the citizens. Only those employees who meet acceptable performance and other standards during their probationary period will be retained as employees. The probationary period maybe extended for additional training as determined by the supervisor. Employees are considered in the probationary period until they have actually performed their regular job duties for at least 6 months to assure their ability to meet acceptable standards of work performance and behavior for the employee's position.

Each employee serving in the probationary period is responsible for knowing, understanding, and meeting the expectations and standards for the position. In addition, each employee is also responsible for performing the job in a safe, productive, and effective manner within the instructions and established standards for the position. Furthermore, employees are expected to maintain acceptable standards of conduct in their employment. During the probationary period, it is the responsibility of the employee to correct any deficiencies or inadequacies in job performance, or conduct.

Seasonal/Temporary Employees. Seasonal and temporary full and part-time employees do not serve a performance probationary period and have no right of appeal when terminated at any time.

Change In Assignment of Employee serving in the Initial Probationary Period. Employees serving in the probationary period may not request or make application for reassignment, promotion, or voluntary transfer during the probationary period without written approval from the City Administrator, or if requested by their Department Director. If the reassignment, promotion, or transfer is approved, the employee will serve a 6-month performance probationary period in the new position beginning with the date of the position change.

Absences During Performance Probationary Period. During the performance probationary period, an employee is eligible to use paid time off for sick leave for qualifying absences ~~and may use vacation leave for an absence~~ due to illness or injury ~~only if all sick leave has been exhausted.~~ Paid time off for any other absence must be approved by the City Administrator and will be considered on a case by case basis. Compensatory time off or recognized holidays during the performance probationary period may be used as approved per established City/departmental policy or practice. Transferred or promoted employees serving in the probationary period retain eligibility for all types of leave established by City policy.

Probationary Performance Evaluations. All employees serving in the probationary period shall be ~~constantly-periodically~~ evaluated and will receive a performance evaluation(s) ~~in accordance with the System.~~ These reviews are designed to evaluate – each employee's performance and to communicate that performance to the employee. The written

| [reviews include a supervisory recommendation to retain or terminate the employee.](#)

~~employee's performance and to communicate that performance to the employee. The written reviews include a supervisory recommendation to retain or terminate the employee.~~

Extensions to Probationary Period. The performance probationary period may be extended under the following circumstances:

At the end of the 6-month initial period, the performance probationary period may be extended for up to an additional 3 months when an employee's performance has been marginal due to extenuating circumstances, additional training is warranted, or an employee's absence from work for an extended period of time did not permit an opportunity for adequate assessment of performance. The decision to extend or not to extend an employee's probationary period may not be appealed. If an extension is granted, the employee will be advised in writing and given the date on which the extended probationary period will be completed. Such extension will be at the sole discretion of the Department Director and the City Administrator.

A probationary period may be extended for time spent on an approved Leave of Absence including leaves of absences due to injury or illness or approved Military Leave. The approved extension will normally equal the length of time away from work. Accordingly, each full-day absence incurred by an employee during the probationary period will normally extend the 6-month probationary period by an additional day.

Successful Completion of Probationary Period/ "Regular" Status Granted. Employees have no guarantee of employment either during or after their probationary period. Only employees who meet acceptable performance, conduct, attendance, and other standards during the probationary period will be retained as regular employees. An employee is granted "regular" status in the new position if the employee satisfactorily completes the performance probationary period.

Failure of Probationary Period. An employee is considered to have failed the probationary period when it is determined that the employee's fitness, job performance, quality or quantity of work, attendance, or combination thereof, does not meet minimum job performance standards and expectations for the position. Failure of probationary period may occur at any time within the probationary period. An employee who does not successfully complete the probationary period will normally be terminated from the City's employment. If desirable and feasible, the employee may be administratively transferred to a more suitable position at the sole discretion of the City. A transferred or promoted employee who fails the probationary period may, at the sole discretion of the City, be reinstated to the former position provided there is a vacancy and if approved by the City Administrator. Department Directors are responsible for ensuring the thorough written documentation of all cases of failure of the probationary period, including documentation of counseling, training, and other efforts to help employees during their probationary period. All such documentation must be reviewed by the City Administrator before an employee serving in the probationary period can be terminated.

Termination of Employees Serving in the Probationary Period. All employees of the City including those serving in the initial probationary period are at-will employees and may be terminated at any time during the probationary period, with or without notice or cause. An employee serving in the initial probationary period who is terminated has no right of appeal.

Employees serving in the initial probationary period are subject to all policies and procedures of the City with the exception of appeal rights.

TELEPHONE CONTACT

- (A) All supervisory personnel and service personnel must have a telephone number at which they can be reached during off-duty hours. This can be a cell phone or a land line telephone.
- (B) No reimbursement shall be made to the employee for the City's use of such employee's private telephone to contact the employee regarding work related matters.
- (C) All employees must immediately notify supervision of any change in phone number(s), and provide a phone number for a secondary contact, i.e., spouse, parent.

ATTENDANCE AND WORK HOURS

Regular Work Hours. Nonexempt employees of the City, except for Fire Department Personnel, normally work 40 hours in a seven-day work week. Exempt employees may be required to work in excess of 40 hours in certain weeks. The work week begins at 12:01 a.m. on Saturday and ends at Midnight on Friday. The regular workday normally begins at 9:00 a.m. and ends at 5:00 p.m., although employees in some departments such as Fire, Police or Public Works may have different work schedules. In times of disaster or emergency, working hours shall be determined by the City Administrator.

Alternative Work Hours. In order to assure the continuity of City services, it may be necessary for Department Directors to establish other operating hours for their departments. Work hours and work shifts must be arranged to provide continuous service to the public. Employees are expected to cooperate when asked to work overtime or a different schedule. Acceptance of work with the City includes the employee's acknowledgement that changing shifts or work schedules may be required and indicates that the employee will be available to do such work.

Attendance Records. Employees are expected to be at their work stations and ready to work at their scheduled start time. Employees are required to record the number of hours worked each day, as well as the time they arrived at work, and the time(s) they left for and returned from any unpaid break during the work day. Exempt as well as non-exempt employees may take a reasonable lunch break and ~~rest/coffee~~ ~~ereak-break~~ as long as the employee's supervisor is aware and has approved the breaks.

Attendance and Punctuality. To maintain a safe and productive work environment, the City expects employees to be reliable and punctual in reporting to work. Absenteeism and tardiness are disruptive and place a burden on the City and on co-workers. Either may lead to disciplinary action, up to and including termination of employment. In the rare instance when an employee cannot avoid being late to work or is unable to work as scheduled, the employee must personally notify the supervisor by phone, text or e-mail as soon as possible in advance of the anticipated tardiness or absence in accordance with departmental procedures. The employee must personally notify the supervisor on each day of absence for absences of a day or more unless the supervisor expressly waives this requirement. An employee who does not personally reach the supervisor by phone must leave a detailed message with the information described above.

In most instances, an employee who fails to properly notify the supervisor in advance of an absence or tardiness will be subject to disciplinary action up to and including termination. An employee who fails to notify the City of an absence of three days or more may be presumed to have voluntarily resigned employment.

BREAKS

POLICY

The City may allow rest breaks as authorized by an employee's immediate supervisor during the course of each work day to prevent undue fatigue.

PROCEDURE

Full-time employees may, depending on individual departmental work schedules and the discretion of the supervisor, take up to two fifteen minute paid breaks each day, one during the first part of the work day and the other during the latter part of the work day. Breaks may not be combined. Time spent on rest breaks will be compensated as hours worked. An employee is expected to be punctual in starting and ending breaks and will be subject to disciplinary action for tardiness. Public safety employees are not provided designated breaks.

Meal Periods. Full-time salaried exempt employees (excluding most Police and Fire Department employees) are normally provided a one-hour meal break near the middle of the workday. Hourly non-exempt employees are normally provided a one-hour unpaid meal break near the middle of the workday. Meal periods may be staggered by the Department Director in order to minimize departmental interruption. Supervisors will provide employees with the starting and ending times for their specific meal periods. Employees will be relieved from work responsibilities during meal breaks. Employees may not extend meal breaks beyond their assigned period.

Lactation Break: Nursing mothers will be provided with reasonable unpaid break time to express breast milk for up to one year after the birth of a child in accordance with applicable law. If an employee needs time beyond the usual lunch and break times, the employee may use vacation or make up time as approved by supervisor. Employees and supervisors are expected to agree, in advance, upon a break schedule and how the time will be counted or made up. A private room will be provided for nursing mothers to use. Do not disturb, or similar signage, should be used to ensure privacy. Employees who have a private office may use it if they prefer.

Supervisor Responsibility: Supervisors are responsible for scheduling the time for employee rest, lunch and lactation breaks and should take into consideration the work load and nature of the job performed. Whenever necessary, the supervisor may change the frequency and length of rest breaks.

Practices Not Permitted: The following practices are not permitted uses of rest breaks:

- combining two daily breaks into one thirty (30) minute rest break;
- "banking" break period time from day to day;
- saving break period time to extend lunch periods or shorten the scheduled work day; or
- requesting compensatory time off or overtime pay for work performed during break period time.

HOLIDAYS

The City provides paid holidays to employees serving in the initial orientation period, regular full-time and regular part-time employees. Every other employee is extended the official holiday, but without pay. The following official holidays will be observed:

New Year's Day	January 1
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September

~~Floating Holiday~~ — ~~All employees~~
(one day added to PTO)

Veteran's Day	November 11
Thanksgiving Day	
Thanksgiving Friday	
Christmas Eve Day	December 24
Christmas Day	December 25

Holidays. A holiday is a period of 8 hours, paid at the employee's regular rate, except in the case of 24-hour Fire Department shift employees where the holiday is 12 hours.

Scheduling of Holiday. Holidays occurring on Saturday normally will be observed on the preceding Friday and holidays occurring on Sunday will normally be observed on the following Monday.

Regularly Scheduled Part-time Employees. Regular part-time employees are eligible for holiday pay at 1/2 the hours allowed for regular full-time employees.

Irregularly Scheduled Part-Time, Temporary and Seasonal Employees. ~~Irregularly scheduled part-time, Temporary and seasonal employees will be paid their regular hourly rates for a holiday only if required to work on a holiday. No holiday pay is authorized for irregularly scheduled, seasonal or temporary employees who do not work on a holiday.~~

Employees required to work on a Holiday. Employees required to work on a holiday will be

given an alternate day off with pay or will be paid 8 hours for the holiday (12 hours for Fire Department shift personnel) at their regular rate of pay, in addition to the hours worked at the employees request.

Employees Scheduled “Off Duty” on a Holiday. When a holiday and any exempt or non-exempt employee’s regularly scheduled day off occur on the same day, the employee will accrue 8 hours of holiday leave (12 hours for Fire Department shift personnel) to be taken at a later date.

Nonexempt Emergency Personnel Called Back on a Holiday. Non-exempt employees called in on an emergency basis to work a holiday for which they are not scheduled to work will be paid for all hours worked on the holiday at the regular rate and will be given an alternate day off with pay or will be paid 8 hours for the holiday (12 hours for Fire Department shift personnel). This includes full and regular part-time personnel.

Ineligibility for Holiday Pay. Employees on unpaid leave the day before and/or the day after the holiday are not eligible for holiday pay. Likewise, nonexempt employees who are absent without authorized leave on the day immediately preceding or following a scheduled holiday will not be paid for the holiday. Irregularly scheduled part-time employees or seasonal employees are not eligible for holiday pay.

Holiday Occurring During Vacation Leave. A holiday that falls within an employee’s vacation period will be counted as holiday in lieu of a day of vacation.

Separating Employees. Except in extraordinary situations, separating employees will not be allowed to use a holiday as their final day of employment. Exceptions must be scheduled and authorized in advance by the City Administrator.

Paid Leave Status. An employee on a paid leave status will normally be paid holiday pay in lieu of the leave status pay they would ordinarily receive at the time of the holiday.

Other Religious Holidays. Employees may request an approved absence to celebrate a religious holiday that is not a scheduled City holiday. If approved, the employee must charge the time to vacation, compensatory time, or an excused absence without pay.

Holiday Pay During Workers’ Compensation Leave. An employee on worker’s compensation leave will receive holiday pay.

INSURANCE

(A) The City shall provide medical, dental, ~~and~~ vision, and long-term disability insurance for each full-time employee effective 90 days from date of hire or according to current policy limitations. The City will pay 100% of the employee's premium. A full-time employee must work at least an average of 30 hours per week or 130 hours a month to qualify for insurance. Insurance is effective so long as the employee remains on the full-time payroll.

(B) Other insurance such as short-term disability, life or supplemental insurances may be offered at the City's or employee's expense as determined during each budget cycle.

(C) Insurance coverage for employee family members shall be made available to qualifying employees at the employee's expense.

(D) The City also carries workers' compensation insurance. In cases of job related injuries, provisions and benefits available under workers' compensation are activated. Employees can obtain details regarding workers compensation form the City Administrator.

PAID TIME OFF
(SICK LEAVE, VACATION LEAVE, AND PERSONAL LEAVE)

The purpose of paid time off (PTO) is to provide employees with flexible paid time off from work that can be used for such needs as vacation, personal or family illness, doctor appointments, volunteerism and other activities of the employee's choice.

Paid time off replaces all existing vacation, sick time, and personal business days that have been previously allotted to employees. Current employees with accrued sick and/or vacation time will now have PTO days.

Employees are encouraged to request PTO at least two weeks in advance for anything other than unanticipated or unscheduled personal or family illness. PTO may be requested up to six months in advance. PTO requests may be declined by Department Directors or the City Administrator if too many employees are scheduled to be out simultaneously and/or if it would disrupt City operations.

Eligibility. All full-time and part-time employees begin accruing PTO from the first day of employment but are not permitted to request leave other than for unexpected personal or family illness until the employee's 6-month probationary period has expired. Extraordinary circumstances may be considered on a case by case basis. Part-time employees accrue PTO proportionately to hours worked.

Accrual Rate. ~~PTO for employees shall be accrued at a rate of 15 working days per year for the first 1-2 years of employment. Thereafter, employees are credited with 20 days per year for employment in year 3-7; employees are credited with 25 days per year for employment in years 7-14; and 30 days shall be credited for 15 years employment and beyond.~~ PTO for employees shall be accrued at a rate of 15 working days per year for the first 1-2 years of employment. Thereafter, employees are credited with 20 days per year for employment in years 3-7; employees are credited with 25 days per year for employment in years 7-14; and 30 days shall be credited for 15 years employment and beyond.

PTO for non-public safety employees shall be accrued as follows:

Months of Service	Accrual Hour Per Pay Period	Amount of Annual Accrual Hours	Maximum Allowed Accrued Hours
0-36	4.92	128	256
37-84	6.45	168	336
85-168	7.99	208	416
169+	9.53	248	496

PTO for public safety employees working 24-hour shifts shall be accrued as follows:

Months of Service	Accrual Hour Per Pay Period	Amount of Annual Accrual Hours	Maximum Allowed Accrued Hours
0-36	6.88	179	358
37-84	9.03	234	438
85-168	11.18	290	580
169+	13.34	346	692

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PTO Accrual. ~~Employees must use a minimum of 10 days (80 hours) per year of PTO. Employees may carry over no more than 5 days/40 hours of accrued PTO to the following year. Any unused PTO in excess of 40 hours will be forfeited. Maximum accumulation of PTO is 100 days/800 hours. Any unused PTO hours in excess of 800 will be forfeited.~~

Employees may carry a maximum PTO balance equivalent to two times their yearly accrual balance.

PTO for Terminated, ~~or Resigning or Retiring~~ Employees who are terminated, ~~or who are resigning or retiring~~ employment with the City ~~are not eligible to collect accrued PTO in excess of that earned during their last year of employment. may be paid for unused PTO for amounts earned during the previous 12 months of employment.~~

Use of PTO All PTO must be taken in minimum increments of one hour.

Other Employment During PTO Employees taking unscheduled PTO due to unexpected illness may not work a second job, including self-employment, or participate in volunteer work, during the period of leave, even if they have written authorization from their Department Director to work a second job. See Outside Employment Policy.

Flex Time Under certain circumstances and with the approval of the Department Director/supervisor, hourly paid employees may flex the work schedule ("flex time") to attend to medical or dental appointments. This is acceptable provided that work time is accurately recorded on the time sheet for the week or work cycle in which flex time was approved. Under no circumstances can flex time to make up time missed extend beyond the affected workweek, or work.

OVERTIME, COMP TIME AND TIME MANAGEMENT

Overtime. Overtime compensation is paid to all non-exempt employees in accordance with federal and state wage and hour requirements. Exempt employees are not paid overtime compensation.

NON-EXEMPT EMPLOYEES.

When the City's operating requirements or other needs cannot be met during regular working hours, non-exempt employees may be scheduled to work overtime, at the request of their supervisor. When possible, advance notification of mandatory overtime assignments will be provided. Overtime assignments will be distributed as equitably as practical to all non-exempt employees qualified to perform the required work. Refusal or other failure to work mandatory overtime may result in disciplinary action up to and including termination of employment. Overtime work is otherwise subject to the same attendance policies as straight time work.

All non-exempt employees must receive their Department Director's prior authorization before performing any overtime work. This means employees may not begin work prior to their scheduled work day and may not continue working beyond the end of their scheduled workday, without prior authorization from the appropriate supervisor. Similarly, employees may not work through their lunch break without prior authorization from the appropriate supervisor. On the employee's time sheet, the appropriate supervisor must also approve any overtime before the time sheet is submitted for processing and payment. Non-exempt employees shall not remain on the work premises without authorization unless they are on duty or are scheduled to begin work within a short period of time. Non-exempt employees who work overtime without receiving proper authorization will likely be subject to disciplinary action, up to and including possible termination of employment.

Generally, except for Fire Department shift employees, overtime pay for non-exempt employees is at the rate of 1-1/2 times the employee's regular hourly rate of pay for hours actually worked in excess of 40 in the City's workweek. An employee's regular hourly rate includes all pay incentives, such as assignment pay, etc. Fire personnel are paid overtime based on the work cycle adopted by their Department under Section 207(k) of the Fair Labor Standards Act.

Exempt employees are those who are not covered by the overtime requirements of the FLSA. Accordingly, exempt employees are not entitled to overtime compensation for work performed beyond 40 hours in a workweek. Exempt employees are expected to put in the hours necessary to complete their assignments with an acceptable level of quality in a timely manner.

Exempt, management level personnel who may be called upon to work more than 40 hours in a workweek may be granted reasonable time off when the time off can be scheduled without interruption of City services. Misuse of this leave is grounds for disciplinary action, up to and including termination.

Compensatory Time.

Flex-time Work Schedule. In situations where overtime payment is not feasible due to budgetary constraints, the Department Director or supervisor must consider flexing the employee's work schedule in an effort to minimize the need for overtime compensation. Flexing must be completed within the same workweek (or work cycle if under the 207(k) exemption of FLSA) that the overtime was worked and must be accurately reflected on the affected employee's time record.

PAYROLL

The City operates on a 14 day pay period. All paychecks are direct deposited into the employee's bank account according to specified bank instructions. The City makes every effort to ensure that payroll and PTO balances are correct. However, employees are responsible for reviewing their payroll deposits and notifying their supervisor immediately if there is any concern about any under or overpayments. Any confirmed underpayments will be paid to the employee in a timely manner. In the event of an overpayment, funds must be returned to the City.

MANAGEMENT AUTHORITY

General and final authority for personnel administration rests with the City Administrator, with the exception of matters reserved to the City Council by State law.

Management Authority. The City may modify, revoke, suspend, interpret, terminate, or change any or all of its policies and procedures, in whole or in part, at any time. The issuance of these policies and procedures does not constitute a contract between the City and its employees for any duration of employment. City Ordinances and Resolutions do not constitute a contract between the City and its employees. There is no specified length of employment, and either the City or the employee can terminate the employment relationship at any time, for any reason.

Policy administration rests with City management and City management reserves sole authority to interpret and administer City operations.

Departmental Policy and Procedural Requirements. Individual City departments may develop policies and procedures that are consistent with City policies and procedures. Department policies and procedures that are operational and that do not relate to those in this handbook, or other approved operational manuals, do not need to be reviewed and approved by the City Administrator or other appropriate departments. All employment related department policies must be reviewed by the City Administrator. Department Directors are responsible for obtaining the necessary review and approval prior to issuing such departmental policies and procedures. Departmental policies and procedures will not become effective unless they have been reviewed and approved in accordance with this policy.

Miscellaneous. Policies and procedures apply to all employees of the City, both on and off duty where applicable, unless otherwise restricted by proper authority, or prohibited by State and/or Federal law.

Only the City Council has the authority to enter into an employment agreement, promise, or commitment contrary to these policies and procedures, and all such agreements, promises, and/or commitments entered into by the City Council must be contained in an express written employment contract signed by both the City Council and the affected employee.

The City Administrator may delegate rights and powers granted under these policies and procedures to a properly trained designee as deemed appropriate in the City Administrator's sole discretion.

DRUG AND ALCOHOL USE POLICY

It is the desire of the City to provide an alcohol and drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory and safe manner.

Prohibition Against Alcohol and Illegal and Unauthorized Drugs. While on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment, no employee may use, possess, distribute, sell, or be under the influence of alcohol (except under the limited circumstances described below), inhalants, illegal drugs, including drugs which are legally obtainable but which were not legally obtained, and prescribed or over-the-counter drugs which are not being used as prescribed or as intended by the manufacturer.

The use of alcohol by a City employee during a business lunch is prohibited even though the person with whom the employee is having lunch may be consuming alcohol. Social activities such as dinners following a seminar or conference are excluded from this prohibition. However, employees are prohibited from consuming alcohol while wearing any clothing or uniform identifying as a City employee. Further, an employee on duty or conducting City business, including City-related business entertainment, may not drive his or her own personal vehicle while under the influence of alcohol. No employee in his or her work-related capacity should ever be impaired because of the excessive use of alcohol. City employees may not bring alcoholic beverages to City work areas and may not store or transport alcohol in a City owned or leased vehicle.

Prohibition Against Illegal and Unauthorized Drug-Related Paraphernalia. This policy also prohibits the use, possession, distribution and sale of drug-related paraphernalia while on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment. Drug-related paraphernalia includes material and/or equipment designed for use in testing, packaging, storing, injecting, ingesting, inhaling or otherwise introducing illegal or unauthorized drugs into the body.

Permissive Use of Prescribed and Over-The-Counter Drugs. The legal use of prescribed and over-the-counter drugs is permitted while on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment only if it does not impair an employee's ability to perform the essential functions of the job (or operate the vehicle, property or other equipment) effectively and in a safe manner that does not endanger the employee, citizens or other individuals in the workplace. Examples of impairment include, but are not limited to, drowsiness, dizziness, confusion, or feeling shaky.

Police Department Employees. Certain City Police Department employees may be required to be in possession of alcohol and/or drugs in carrying out their job duties. Such employees will be exempted from certain portions of this policy under certain limited conditions. Additional

guidelines may be established by Police Department operating procedures.

Mandatory Disclosure by Employees. Employees taking prescription medication and/or over-the-counter medication must report such use to either their Department Director or to the City Administrator if there is a reasonable likelihood the medication will impair the employee's ability to perform the essential functions of his or her job (or operate a vehicle, property or other equipment, if applicable) effectively and in a safe manner that does not endanger the employee, citizens or other individuals in the workplace. Examples of impairment include, but are not limited to, slurred speech, drowsiness, dizziness, confusion, or feeling shaky.

On-Call Employees. Employees scheduled to be on call are expected to be fit for duty upon reporting to work. Any employee scheduled to be on call, and is called out, is governed by this policy. Sometimes, an employee who is not scheduled to be on call may nevertheless be called out. If this or any other situation occurs where the employee called out is under the influence of alcohol or has a presence in the system of drugs, such that reporting to work would result in a violation of this policy, the employee must so advise the appropriate supervisor on duty. The employee will not be required to report to work.

Mandatory Reporting of Arrests and Convictions. Employees must notify their immediate supervisor and the Department Director, in writing, of any alcohol or drug-related arrest and/or convictions (including a plea of *nolo contendere*) or deferred adjudication, for a violation occurring off duty and/or in the workplace no later than twenty-four (24) hours after the arrest and/or conviction.

Off-Duty Conduct. The City may take disciplinary action, up to and including termination of employment, if an employee's off-duty use of or involvement with drugs or alcohol is damaging to the City's reputation or business, is inconsistent with the employee's job duties, or when such off-duty use or involvement adversely affects the employee's job performance. Any employee reporting to work under the influence of illegal drugs or alcohol (zero ~~tolerance~~tolerance) may be disciplined, up to and including termination.

Rehabilitation/Treatment.

1. It is the City's desire to assist employees who voluntarily request assistance with alcohol or drug dependency. For City support and assistance, however, an employee must acknowledge the problem and seek and accept counseling and/or rehabilitation before it impairs job performance and/or jeopardizes the employee's employment.
2. Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take a leave of absence to participate in a rehabilitation or treatment program. (An employee may not enroll in a rehabilitation or treatment program in lieu of disciplinary action.) The leave of absence may be granted in the City's sole discretion. Factors considered by the City in deciding whether to grant leave include: the length of the employee's employment with the City; the employee's prior work and disciplinary history; the employee's agreement to abstain from the use of problem substance and follow all other requirements of the rehabilitation/treatment program; the reputation of the program and the likelihood of a successful outcome; the employee's compliance with City policies, rules, and

prohibitions relating to conduct in the workplace; and the resulting hardship on the City due to the employee's absence. Unless otherwise required by law, it is the City's policy to grant such a leave of absence only once during the course of an employee's employment with the City.

3. The cost of any rehabilitation or treatment may, in some cases, be covered under the City's group health insurance policy. In any case, the employee is responsible for all costs associated with any rehabilitation or treatment program.
4. During time off for a City-approved rehabilitation or treatment program, the employee must use any available ~~vacation~~ ~~vacation leave~~, ~~sick leave~~ PTO, compensatory time off, or other accrued paid leave time.
5. If the employee successfully completes the prescribed rehabilitation or treatment, the City will make reasonable efforts to return the employee to the prior position or one of similar pay and status. However, employment with the City following a City-approved leave for rehabilitation or treatment is conditioned on the following:

Initial negative test for drugs and/or alcohol before returning to work;

A written release to return to work from the City-approved rehabilitation or treatment facility/program;

Periodic and timely confirmation of the employee's on-going cooperation and successful participation in any follow-up or ongoing counseling, testing, or other treatment required in connection with the City-approved rehabilitation or treatment program, if applicable;

In addition to any testing required in connection with the employee's ongoing treatment or follow-up to treatment, all employees who participate in rehabilitation or treatment under this section will also be required to submit to periodic and/or random testing by the City during the two years following the employee's return to work following treatment;

The employee must sign a formal written agreement to abide by the above conditions, as well as any other conditions deemed appropriate by the ~~Director of~~ ~~Director of~~ Human Resources City Administrator. The employee must meet with the City Administrator or designee to discuss the terms of continued employment and sign a formal agreement before returning to work.

Policy Violations. Violations of this policy will generally lead to disciplinary action, up to and including immediate termination of employment and/or required participation in a substance abuse

rehabilitation or treatment program. The Police and Fire Departments may have stricter disciplinary rules regarding violation of this policy. Employees with questions or concerns about substance dependency or abuse are encouraged to discuss these matters with their supervisor or the ~~Director~~[Director of Human Resources City Administrator](#) to receive assistance or referrals to appropriate resources in the community.

TESTING

Types of Tests. Testing may include one or more of the following: urinalysis, hair testing, breathalyzer, Intoxilyzer, blood, or other generally-accepted testing procedure.

Testing of Applicants. All public safety applicants to whom a conditional offer of employment has been made will be required to submit to testing for alcohol and illegal and unauthorized drugs. A positive test result, refusal to test, or attempts to alter or tamper with a sample or any other part of the test, will render the applicant ineligible for consideration of employment or future employment with the City.

Testing of Employees.

1. Employees may be tested for alcohol and/or illegal and unauthorized drugs after a workplace injury or accident or “near miss,” when reasonable suspicion exists, or in connection with any required treatment or rehabilitation. The City may conduct random testing on employees in safety sensitive positions ~~identified as follow: Fire Personnel such as police or fire personnel.~~ [such as police or fire personnel.](#)
2. Police and Fire Department employees are also subject to any applicable Departmental rules and regulations regarding illegal and unauthorized drug and alcohol testing.
3. For purposes of this policy, reasonable suspicion is a belief based on articulable observations (e.g., observation of alcohol or drug use, apparent physical state of impairment, incoherent mental state, changes in personal behavior that are otherwise unexplainable, deteriorating work performance that is not attributable to other factors, a work-related accident or injury, evidence of possession of substances or objects which appear to be illegal or unauthorized drugs or drug paraphernalia) sufficient to lead a supervisor to suspect that the employee is under the influence of illegal or unauthorized drugs or alcohol. Supervisors who refer an employee for reasonable suspicion testing must document the specific factors that support reasonable suspicion testing (e.g., the who, what, when, where of the employee’s behavior and other symptoms, statements from other employees or third parties, and other evidence supporting the reasonable suspicion testing).
4. Tests will be paid for by the City. To the extent possible, testing will normally be done during the employee’s normal work time.
5. Any employee who refuses to be tested, or who attempts to alter or tamper with a sample or any other part of the testing process, will be subject to disciplinary action up to and including termination.

6. A positive test result is a violation of the City's Drug and Alcohol Use Policy and may result in disciplinary action up to and including termination of employment. Any employee who is terminated for violation of the City's Drug and Alcohol Use Policy is ineligible for future employment with the City.
7. The City has additional obligations when testing for controlled substances and alcohol for those employees regulated by the U.S. Department of Transportation. Please see the City's Drug and Alcohol Policy for DOT Employees for additional information.

Testing Procedures.

1. All testing must normally be authorized in advance by both the employee's Department Director and the ~~Director of Human Resources~~ [City Administrator](#). If the Department Director is unavailable within a reasonable period of time, the ~~Director of Human Resources~~ [City Administrator](#) may, with sole discretion, authorize the testing of an employee. If the ~~Director of Human Resources~~ [City Administrator](#) is unavailable within a reasonable period of time, the Department Director may, with sole discretion, authorize the testing of an employee. For reasonable suspicion testing, testing may not be authorized without the supervisor's documentation of the articulable factors which led the supervisor to suspect that the employee is under the influence of illegal or unauthorized drugs or alcohol. Testing should be arranged as soon as possible after the supervisor's articulable observations.
2. If an employee's conduct resulted in a work place accident, injury or "near miss," or reasonable suspicion exists to believe that the employee has violated the City's Drug and Alcohol Use Policy, the employee will be provided with transportation to the testing facility. A supervisor or other designated City representative may be required to stay with the employee during the testing process. The City may, in its discretion, reassign the employee or put the employee on administrative leave until the test results are received. The City will make arrangements to have the employee transported home after the testing.
3. All substance abuse testing will be performed by an approved laboratory or healthcare provider chosen by the City. All positive test results will be subject to confirmation testing.
4. Test results will be maintained in a confidential file separate and apart from the employee's personnel file. Any medical-related information will be confidential and accessible only by the ~~Director of Human Resources~~ [City Administrator](#); supervisors and managers on a need to know basis, including those who have a need to know about necessary restrictions on the work or duties of an employee and any necessary accommodation; first aid and safety personnel when appropriate; government officials; insurance companies as may be necessary to provide health or life insurance to employees; by court order or as otherwise legally mandated; and as necessary to protect the interests of the City.

DRUG AND ALCOHOL POLICY FOR DOT EMPLOYEES

Employees/Applicants Subject To Testing. City employees who drive a commercial motor vehicle (CMV) requiring a Commercial Driver's License (CDL) as part of their job duties are subject to alcohol and drug testing as required by the U.S. Department of Transportation (DOT) and the Federal Motor Carrier Safety Administration and as outlined in this policy. The employee's supervisor or the City Administrator or designee will advise the employee if the employee is subject to DOT testing and the terms of this policy. Employees who are not required by DOT to hold a CDL are not subject to this policy. Applicants for employment for a position requiring a CDL are also subject to testing under this policy.

Employees covered by this policy are also required to comply with the City's Drug and Alcohol Use Policy. In other words, this DOT Drug and Alcohol Policy is in addition to, not in lieu of, the provisions of the City's general Drug and Alcohol Use Policy. DOT tests will be completely separate from non-DOT tests in all respects. DOT tests take priority and will be conducted and completed before a non-DOT test is begun. All drug and alcohol testing performed under this DOT Policy will comply with applicable DOT procedures. If this policy conflicts with DOT regulations in any way, the DOT regulations will govern.

Prohibited Alcohol Use.

- a. **On-duty and Pre-duty Use.** Reporting for, or remaining on, duty requiring the performance of safety-sensitive functions is prohibited under the following conditions:
 - While having a breath alcohol concentration of more than 0.00 as indicated via breath test;
 - While using alcohol; or
 - Within 4 hours after using alcohol.
- b. **Use Following An Accident.** An employee required to take a post-accident alcohol test pursuant to this policy is prohibited from using alcohol for 8 hours following the accident, or until undergoing a post-accident alcohol test, whichever occurs first.

Prohibited Drug Use. Illicit use of drugs by safety sensitive drivers is prohibited both on and off duty. An employee may not report for duty or remain on duty when using or after use of any controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the employee that the substance will not adversely affect the employee's ability to safely operate a CMV. An employee may not report for duty, remain on duty or perform a safety sensitive function if the employee tests positive for controlled substances or has adulterated or substituted a test specimen.

Required Alcohol and Drug Tests. DOT requires the following testing for covered drivers: pre-employment, post-accident, random, reasonable suspicion, return-to-duty and follow-up testing. Before conducting any required DOT testing, the City will notify the driver that the alcohol or drug test is required by DOT regulations.

- a. **Pre-employment Testing.** Drug and alcohol tests will be conducted after a conditional offer of employment is made, but before actually performing safety-sensitive functions for the first time. These tests are also required when employees are promoted, demoted or transferred into a safety sensitive driver position.
- b. **Post-accident testing.** Drug and alcohol tests will be conducted after accidents in which the driver's performance could have contributed to the accident (as determined by a citation for a moving traffic violation) and for all fatal accidents even if the driver is not cited for a moving traffic violation. Post-accident testing must be conducted as soon as practicable on all surviving drivers following an occurrence involving a CMV operating on a public road in commerce, as follows:
 - When the employee is issued a moving traffic violation citation and one or more of the vehicles involved is disabled and must be towed from the scene;
 - When the employee is issued a moving traffic violation citation and any person involved in the accident is injured to the extent that he/she requires and receives immediate medical treatment away from the scene of the accident; or
 - In an accident involving a fatality, testing will be performed on anyone who was performing safety sensitive functions with respect to the vehicle.

An employee subject to post-accident testing must remain readily available for such testing or will be deemed by the City to have refused to test. Nothing in this policy shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical care.

In post-accident situations, the City may substitute a blood or breath alcohol test for a urine drug test, so long as the test is performed by state or local law enforcement officials using procedures required by their jurisdictions, provided such test results are received directly from the local jurisdiction or the driver. A positive post-accident test administered by law enforcement will result in the same action as a positive post-accident test performed at the City's behest.

Post-Accident Alcohol Testing. If alcohol testing cannot be administered within 2 hours of one of the above listed occurrences, a written statement explaining why the alcohol test was not promptly administered must be provided to the ~~Director of Human Resources~~ [City Administrator](#) by the appropriate supervisor. If alcohol testing cannot be administered within 8 hours after the occurrence, the City will cease attempts to administer an alcohol test and document the reasons the alcohol test was not administered. This report must be promptly forwarded to the City Administrator or designee.

Post-Accident Drug Testing. A driver will be drug tested as soon as practicable but not later than 32 hours after one of the above listed occurrences. If the driver is not drug tested within 32 hours, the appropriate supervisor must prepare a report documenting the reason why and promptly forward the report to the City Administrator or designee.

- c. **Reasonable Suspicion Testing.** Reasonable suspicion drug and alcohol testing is conducted when a trained supervisor has reason to believe that an employee is in violation of this policy. The reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee; the observations may also include indications of the chronic and withdrawal effects of controlled substances. The supervisor must consult with the Department Director (or designee) and affirm the basis of the suspicion. If the Department Director concurs, the employee will be required to undergo testing only after consultation with the ~~Director of Human Resources~~ City Administrator. A written report of the reasonable suspicion observations must be prepared by the supervisor(s) who made the observation within 24 hours of the observed behavior or before the results of tests are released, whichever is earlier. This report must be promptly forwarded to the City Administrator or designee.

Reasonable Suspicion Alcohol Testing. Reasonable suspicion alcohol testing is permitted only if the reasonable suspicion observation is made during, just before, or just after, the period of the work day the employee is required to be in compliance with this policy. An employee may be directed to undergo reasonable suspicion testing only while the employee is performing, just before performing, or just after performing, safety sensitive functions. If alcohol testing cannot be administered within 2 hours after the reasonable suspicion observation, a written statement that explains why the alcohol test was not promptly administered must be given to the ~~Director of Human Resources~~ City Administrator. If alcohol testing cannot be administered within 8 hours after the observation, the City will cease attempts to administer an alcohol test and the appropriate supervisor must immediately document the reasons that the alcohol test was not administered; this report must be promptly forwarded to the City Administrator or designee

Notwithstanding the absence of a reasonable suspicion alcohol test under this policy, an employee may not report for duty or remain on duty requiring the performance of safety sensitive functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech and performance indicators of alcohol misuse. In such instances, the employee will not be permitted to perform or continue to perform safety sensitive functions until:

- An alcohol test measures the employee's alcohol concentration at more than 0.00; or
- 24 hours have elapsed since the reasonable suspicion observation was made.

Reasonable Suspicion Drug Testing. A driver will be drug tested as soon as practicable but not later than 32 hours after the reasonable suspicion observation. If the driver is not drug tested within 32 hours, the appropriate supervisor must prepare a report documenting the reason why and promptly forward the report to the City Administrator or designee.

- d. **Random Testing.** Drivers are selected for random, unannounced drug and alcohol testing using a scientifically valid method, such as a random 00 number table or a computer-based

random number generator that is matched with the employee's Social Security number, payroll identification number, or other comparable identifying numbers. Each driver subject to this policy will have an equal chance of being tested each time random selections are made. The number of drivers randomly selected will be in accordance with applicable DOT regulations. Each driver randomly selected for testing will be tested during the selection period. Dates and times for random testing are unannounced and spread reasonably throughout the calendar year. Each driver selected for random testing must proceed to the test site immediately after notification; if, however, the driver is performing a safety-sensitive function, other than driving a CMV, at the time of notification, the City will instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible. A driver will be randomly tested for alcohol just before, during, or just after performing, safety sensitive functions; random testing for drugs does not have to be conducted in immediate time proximity to performing safety sensitive functions.

e. Return-to-duty and follow-up testing. Return-to-duty tests are conducted when a driver who has violated DOT's prohibited drug and alcohol standards returns to performing safety sensitive duties. Follow-up tests are unannounced, and at least 6 tests must be conducted in the first 12 months after a driver returns to duty; follow-up tests may be extended for up to 60 months following a driver's return to duty. Drug tests must be negative and alcohol tests must demonstrate a breath alcohol level of 0.00. The driver will pay all costs associated with return-to-duty testing. When applicable, the City will follow all applicable DOT regulations in requiring return-to-duty and follow-up testing. The City is not, however, required to hire an applicant or continue the employment of a driver who has violated DOT drug and alcohol regulations or this policy and it is the policy of the City not to do so. Thus, return-to-duty and follow-up tests are generally applicable only for those seeking assistance as set out below and, based on individual circumstances, for those who may have had an alcohol concentration ~~of greater than 0.00 0.02 or greater, but less than 0.04.~~

Refusal to Test. An employee who refuses to be tested in any of the above circumstances, who obstructs the testing process, or who tampers/alters a specimen, will not be permitted to perform or continue to perform safety sensitive functions and will likely be terminated. An applicant who does one of these prohibited acts will not be hired. Except in the case of pre-employment testing, a refusal to test includes the failure to appear for testing within a reasonable time, as well as failure to remain at the testing site until the testing process is complete. Failure to test also includes the failure to provide the required sample with no adequate medical explanation, and the failure to cooperate with any part of the testing process (e.g., refusing to empty pockets when asked to do so, behaving in a confrontational way that disrupts the collection process, or failure to undergo a medical exam or evaluation as directed by the physician medical review officer (MRO) as part of the verification process).

Additional Information About Alcohol Testing.

Consequences of a Positive Alcohol Test. An employee who is tested and has an alcohol concentration of ~~greater than 0.00 0.04~~ or greater will be removed from safety sensitive functions and may be terminated. An employee who is tested and has an alcohol concentration ~~of .02 to .039 of above 0.0~~ will not be permitted to perform safety sensitive functions for a minimum of

24 hours and will be disciplined, up to and including termination. If not terminated, then the employee will receive a mandatory referral to a substance abuse professional. Any non-compliance with the treatment recommendations of the substance abuse professional will result in disciplinary action, up to and including termination. (The employee will be placed on administrative leave without pay

Alcohol Testing Procedures. A trained breath alcohol technician will conduct alcohol tests. If the alcohol concentration is ~~0.02~~ greater than 0.00, a second confirmation test will be conducted in accordance with DOT regulations, the results of which will determine any actions taken. Any result of less than 0.02 alcohol concentration is considered a “negative” test. The second, confirmation test results determine if the employee is in violation of this policy. Testing procedures that ensure accuracy, reliability and confidentiality of test results will be followed pursuant to DOT regulations.

Additional Information About Drug Testing.

- a. **Drug Testing Procedures.** Drug testing is conducted by analyzing a driver’s urine specimen at a lab certified by the U.S. Department of Health and Human Services. The driver provides a specimen in a location that affords privacy and the “collector” seals and labels the specimen, completes a chain of custody document, and prepares the specimen and accompanying paperwork for shipment to a drug-testing lab. “Split” urine specimens provide drivers with an opportunity for a second test, if needed. If the driver challenges the validity of the test, then the employee has 72 hours to request that the split specimen be sent for testing to another certified lab approved by the City Administrator. The second test will be at the driver’s own expense.
- b. **Drugs Tested For.** DOT requires testing for the following drugs:
 - Marijuana (THC)
 - Cocaine
 - Amphetamines
 - Opioids (natural, synthetic and semi-synthetic)
 - Phencyclidine (PCP)

A screening test is performed first. If it is positive for one or more of these drugs, then a confirmation test is performed. Whenever the terms “drug,” “drugs” or “controlled substances” are used in this policy, they refer to the substances listed above. The City will not test for any other substances under this policy. The City may, however, (1) test for other controlled substances pursuant to its general Drug and Alcohol Use Policy; or (2) modify the list of DOT tested drugs at the direction of DOT.

- c. **Review of Drug Test Results.** All positive drug test results are reviewed and interpreted by a physician medical review officer (MRO) before they are reported to the City. If the lab reports a positive result to the MRO, the MRO will contact the driver (either in person

or by phone) and will conduct an interview to determine if there is an alternative medical explanation for the drug(s) found in the driver's urine specimen. If the driver provides appropriate documentation and the MRO determines that it is a legitimate medical use of the prohibited drug(s), the drug test result is reported as a negative to the City.

- d. **Consequences of a Positive Drug Test.** A driver will be removed from safety sensitive duties and placed on administrative leave if the test returns a positive for drugs. The removal cannot take place until the MRO has interviewed the driver and determined that the positive test resulted from the unauthorized use of a controlled substance. A confirmed positive drug result will result in termination of employment.

Confidentiality. Test results may be released only to the driver, designated City officials, a substance abuse professional, laboratory officials or a medical review officer. Records will also be made available to a subsequent employer or other identified person upon the driver's specific written request. Test results will not be released to others except as required by law or expressly authorized in the applicable DOT regulations (e.g., the decision maker in a lawsuit, appeal or administrative proceeding initiated by or on behalf of the driver and arising from a positive DOT drug or alcohol test or refusal to test; this includes workers' compensation and unemployment proceedings.) All test results will be kept in a confidential file by the ~~Director of Human Resources~~ City Administrator. Management and supervisory personnel who are authorized to have access to alcohol and drug testing results must maintain complete confidentiality regarding this information. City employees who make a reasonable suspicion observation or who witness an accident must also maintain confidentiality. Breach of confidentiality relating to test results, or any other related matters, will likely result in disciplinary action, up to and including termination of employment.

Information From Prior Employers. For new hires, promotions and transferred employee-drivers seeking to perform safety sensitive functions for the first time, the City is required, with the driver's written consent, to obtain information from previous employers regarding alcohol test results of ~~0.04 or greater~~ than 0.00, verified positive drug test results, refusals to test (including verified adulterated or substituted drug test results), and any other violation of DOT drug and alcohol testing regulations within the two years prior to the date of the driver's application, promotion or transfer. Affected individuals must sign a Breath Alcohol and Drug Testing Results Request. The City will obtain and review the information before allowing the person to perform safety sensitive functions. If the City receives any such information about an applicant-driver, the applicant will not be hired; if such information is received about an employee seeking promotion or transfer, the employee will not be promoted or transferred to the driver position and may also receive disciplinary action, up to and including termination of employment. The City will maintain a written, confidential record of the information it obtains and/or the good faith efforts it made to obtain the information. This information will be retained for a minimum of 3 years. The City will also ask if the person has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the driver applied for, but did not obtain, safety sensitive transportation work covered by a DOT agency drug and alcohol testing rules during the past 2 years. If the person admits to such conduct, the person will not be allowed to perform safety sensitive functions for the City. If the driver refuses to provide the City with the required written consent, the driver will not be permitted to perform safety sensitive functions and will likely be disciplined (up to and including termination of employment) if employed, or not hired if applying

for employment.

Record Retention. The City will maintain and retain records under this policy as mandated by DOT regulations.

Notification to Applicants/Employees of Positive Test Results. The City will notify applicants of the results of a pre-employment drug test if the applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. The City will notify an employee of the results of random, reasonable suspicion and post-accident drug tests if the test results are confirmed positive, and also which controlled substance(s) verified positive after the MRO confirms the positive. The City will also make reasonable efforts to contact and request each driver who tested positive to contact and discuss the results of their drug test with a MRO who has been unable to contact the driver. The City will immediately notify the MRO that the driver has been notified to contact the MRO within 72 hours.

Employee Admission of Drug/Alcohol Use. An employee who admits to alcohol misuse or drug use must do so in accordance with the City's general Drug and Alcohol Use Policy; provided, however, the employee may not self-identify in order to avoid the testing requirements of this DOT policy. Further, the employee must make the admission prior to performing a safety sensitive function, i.e., prior to reporting for duty. The employee may not perform a safety sensitive function until the City is satisfied that the employee has been evaluated and has successfully completed educational or treatment requirements in accordance with the City's general Drug and Alcohol Use Policy. A drug and alcohol abuse evaluation expert, i.e., an EAP professional, a substance abuse professional or a qualified drug and alcohol counselor, will determine successful completion. Prior to the employee performing safety sensitive functions, the employee must undergo a return to duty alcohol test with a result of ~~less than 0.02~~ 0.00 and/or a return to duty drug test with a negative test result.

Safety Sensitive Functions. For purposes of this policy, safety sensitive function or duty means all the time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety sensitive functions/duties include:

- All time at a City, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City;
- All time inspecting equipment as required by applicable DOT regulations or otherwise inspecting, servicing, or conditioning any CMV at any time;
- All time spent at the driving controls of a CMV in operation;
- All time, other than driving time, in or upon any CMV;
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Transportation to Testing Site. With the exception of pre-employment and random testing, employees will be driven to the testing facility by a supervisor. The supervisor will remain with the employee during the testing process. The City will make arrangements to have the employee transported back to the City or home, as appropriate, after the testing is complete.

Questions. Anyone with questions regarding this policy should contact the City Administrator.

HEALTH/MEDICAL EXAMINATIONS/FITNESS FOR DUTY

The City endeavors to provide a safe work environment for all employees. It is the responsibility of each employee to maintain the standards of physical and mental health fitness required for performing the essential functions of the position, either with or without reasonable accommodation.

Serious Health Condition/Disabilities. The City recognizes that employees with a potentially life-threatening and/or infectious illness or physical and/or mental disabilities may wish to continue to engage in as many of their normal pursuits as their condition allows, including their employment. As long as these employees are able to perform the essential functions of their job, with or without a reasonable accommodation, without creating an undue hardship on other employees, and medical evidence indicates that their condition is not a direct threat to themselves or others, the City will treat them consistently with other employees.

Medical Exams for Current Employees. The City Administrator, or an employee's Department Director (with the prior written approval of the City Administrator) may require a current employee to undergo a medical and/or psychological examination to determine fitness for continued employment, as may be necessary in order for the City to provide a reasonable accommodation; following an injury or accident; and as otherwise permitted in accordance with applicable laws.

Medical Information from an Employee's Doctor. Under certain circumstances the City Administrator may require employees to provide medical information from their health care provider. In such cases, employees are to inform their health care provider not to provide any genetic information when responding to such request.

Genetic Information. In accordance with the Genetic Information Nondiscrimination Act (GINA), the City will neither request nor require genetic information of an employee or his/her family member, except as specifically allowed by GINA. To comply with GINA, employees are directed not to provide any genetic information when responding to any City request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or embryo lawfully held by an individual or family member receiving assistive reproductive services.

Medical Records. Medical records and sensitive information regarding an employee's health will be kept confidential as required by law. Limited information may be provided to supervisors and managers, first aid and safety personnel, government officials, Texas Workers' Compensation Commission, and as necessary for insurance and other business-related purposes.

Return to Work/Fitness for Duty. Before returning to work following a medical and/or psychological examination under this policy, the employee must coordinate his/her return through the Department Director or City Administrator as appropriate. An employee who misses work due to medical reasons may be required to provide a fitness-for-duty certification before returning to

work, describing whether the employee is released to perform all of the essential functions of the job, or may require an accommodation that will permit the employee to perform the essential functions of the job. The appropriate City official and the employee will discuss what suggested accommodation(s) is reasonable in light of the particular circumstances of the employees particular position.

Time Off From Work. Time away from work undergoing a City mandated fitness for duty examination will normally be coded to paid administrative leave, but may be retroactively changed to sick leave, and/or other leave as circumstances warrant.

Fire and Police personnel may be subject to additional policies regarding fitness for duty.

CONFIDENTIALITY OF MEDICAL INFORMATION

Federal law requires that the City maintain all employee medical information in separate, confidential files. Therefore, in addition to personnel files, the City maintains a separate medical file for each employee. The City Administrator or designee maintains these confidential medical files.

Examples of information that may be provided to the City by an employee or the employee's health care provider, and maintained in the confidential medical file, include:

- a note to justify an absence;
- a note to request a leave;
- a note to verify the employee's ability to return to work;
- medical records to support a claim for sick pay or disability benefits;
- insurance records;
- workers' compensation records; and
- medical history records

The City does not request genetic information from an applicant, employee, or health care provider. The City discourages health care providers from sending genetic information. Any genetic information inadvertently sent to the City will be returned to the health care provider.

It is important that employees understand that the records are confidential but that the confidentiality may be waived when the employee provides medical information to the supervisor or the City Administrator or designee. When an employee provides information to the supervisor, the supervisor is expected to share the information only on an "as needed" basis with other members of management.

In addition to protecting their own confidential medical information, employees must also respect the privacy and confidentiality of other coworkers' medical information. Employees are expected to use discretion and judgment when dealing with such information and are to refrain from passing along information, gossip, rumors or anything else that may constitute an invasion of a coworker's privacy or breach of confidence.

EMPLOYEE CONDUCT AND WORK RULES/DISCIPLINARY ACTION

To ensure orderly and productive operations and provide the best possible work environment, the City requires employees to follow rules of conduct that will protect the interests and safety of the City, its citizens and employees.

Progressive Discipline: In certain instances, the City will use a progressive disciplinary system. The City is not obligated to use all of the progressive disciplinary steps available, and may begin the disciplinary process at any level, up to and including immediate discharge, depending upon the severity of the conduct, the employee's work performance and prior disciplinary history, the employee's length of service, and any mitigating circumstances. At-will employment status is not affected by the use the progressive discipline process. Depending on the circumstances of each individual case, disciplinary action may consist of one or more of the following:

- oral warning
- letter of counseling
-
- written reprimand
- probation
- suspension (without pay)
- demotion
- last chance agreement
- discharge

Documentation: All forms of discipline, other than oral warnings, must be documented and will be placed in the employee's personnel file. In the event an employee is to be discharged, the supervisor shall forward a copy of the documentation to the City Administrator or designee for review prior to taking the action. ~~who shall forward a copy of the dismissal to the City Administrator.~~ The Supervisor will also make a recommendation concerning the possible rehiring (or not rehiring) of the person in the future.

Supervisory Responsibility: All employees with the responsibility and authority to supervise and direct employees under their control shall administer policies and procedures within their scope of authority; document their subordinates' job performance, conduct, and behavior as appropriate; properly conduct evaluations of subordinates in a timely manner; discipline their subordinates as required under their departmental and/or City policies and procedures as well as address performance appeals submitted to them as provided by policy in a professional manner, in an attempt to resolve such issues at the lowest possible supervisory level.

Review by City Administrator: Any proposed disciplinary action in excess of an oral warning or letter of counseling must be reviewed by the City Administrator prior to being given to the employee. This applies to both employees serving in the initial orientation period and regular employees that have completed the initial orientation period.

Appeal Rights: Where a disciplinary action involves a suspension of 1 day (or 1 shift) or more, demotion and/or termination, the employee will normally be given an opportunity to respond to

the allegations prior to disciplinary action being taken. (See Employee Appeals Policy). However, positions classified as Director level and above have no right of appeal for any type of disciplinary action, including termination. Employees serving the initial orientation period have no right of appeal for disciplinary action taken against them.

Prohibited Activities: Disciplinary action will be imposed for violations of City or departmental policies and procedures, codes of conduct, rules and regulations, either written or verbal. In addition, acts which are not specifically addressed in policies and procedures, codes of conduct, and rules and regulations, yet may adversely affect the City or put the health and safety of fellow employees, citizens or other third parties, at risk, may also result in disciplinary action. It is impossible to list all the forms of behavior that are considered unacceptable in the workplace. The following are some examples of conduct that will likely result in disciplinary action, up to and including termination of employment:

- Theft or inappropriate removal or use of City property or other property not belonging to the employee;
- Falsification of timekeeping or other records, including employment application;
- Reporting for work or working under the influence of or a presence in the system of alcohol or illegal drugs;
- Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating City-owned equipment;
- Violation of City's policy regarding sexual or other unlawful harassment;
- Interfering with work schedules or another employee's ability to work;
- Misuse of City telephones, computers, mail systems, internet, etc.;
- Excessive or unscheduled absenteeism, tardiness in reporting for work or returning from lunch and breaks or absence without notice and/or approval;
- Breaks in excess of the allotted time allowed;
- Violation of smoking policy;
- Violation of safety or health rules and failure to immediately report an on-the-job injury/accident;
- Profanity, abusive language, or racial slurs;
- Unauthorized disclosure of confidential information;
- Violation of City or departmental policies, codes of conduct, rules and procedures;

- Coercion, intimidation, or threats against citizens, supervisors, co-workers, City officials, or others;
- Making or publishing false, vicious, or malicious statements about the City, or a City employee or citizen, or others;
- Unsatisfactory performance or conduct;
- Inefficiency, incompetence or neglect of duty;
- Fighting, provoking or instigating a fight, or threatening violence;
- Disruptive activity in the workplace;
- Engaging in a work stoppage;
- Conduct which results in waste or damage of a coworker's, City, or citizen-owned property;
- Insubordination or other disrespectful or unprofessional conduct;
- Discourteous treatment of the public;
- Possession of weapons on City time, City premises, or while on City business (except for licensed peace officers required to carry a weapon as part of their job duties or employees with concealed handgun license with permitted weapon locked in their personal vehicle);
- Violation of local, state or federal law;
- Conviction of a felony, including reasonable belief employee has committed a crime under Texas Penal Code or Class A or B misdemeanor involving moral turpitude, or repeated conviction of Class C misdemeanor charges, or any crime;
- Failure to timely return to work upon conclusion of authorized leave or disciplinary suspension;
- Outside employment that conflicts with, or potentially conflicts with, City interests;
- Acceptance of payment of any kind for activities related to City Employment;
- Failure or refusal to follow lawful orders;
- Sleeping on the job (except for Fire Department personnel who are governed by applicable Fire Department Rules and Regulations);

- Dishonesty, including misrepresentation during the hiring process;
- An accumulation of minor infractions.

Disciplinary Meeting: A disciplinary meeting will be scheduled prior to the imposition of a disciplinary suspension of 1 day (or 1 shift) or more, demotion or termination. The Department Director, the affected employee, the City Administrator or designee and anyone else deemed necessary by the Department Director typically attend the disciplinary meeting. During the meeting, the affected employee will be given an opportunity to present an explanation of the conduct leading up to the proposed disciplinary action. Employees will be given advance notice of the meeting. Employees may, in the City's sole discretion, be placed on administrative leave prior to, during, or after the disciplinary meeting. The employee will be notified of the City's determination following the meeting.

Administrative Leave: During an investigation into alleged offenses or violations of City policies, the City may, in its sole discretion, place the employee on administrative leave. The leave may be with or without pay and may be charged to available accrued PTO if authorized by the City Administrator.

~~Code of Conduct: All employees are subject to the City of McLendon-Chisholm Code of Conduct in addition to this policy.~~ [City of McLendon-Chisholm Code of Conduct in addition to this policy.](#)

ARRESTS, CONFINEMENTS AND INDICTMENTS

POLICY

City employees are subject to disciplinary action and/or job restrictions for violations of law. This policy applies to acts prohibited by law that result in charges being filed, arrest, confinement, indictment, and/or conviction, as well as to acts prohibited by law not resulting in charges filed, arrest, confinement, or indictment.

PROCEDURE

Employee Notice of Felony and Misdemeanor Charges: Employees must immediately notify their supervisor and/or Department Director within twenty-four (24) hours if they are arrested, charged, indicted, convicted, receive deferred adjudication, or plead *nolo contendere* to any misdemeanor or felony. Employees who do not drive as a part of their job duties with the City are not required to report minor traffic violations. Failure to report these events in a timely manner may result in immediate termination.

Employee Status after Alleged Violation of Law: At the time the employee's department is made aware of an employee's arrest or conduct constituting an offense, the Department Director shall consult with the City Administrator to determine available options which may include, but are not limited to:

- allowing the employee to return to regular duty with pay;
- allowing the employee to return to restricted duty with pay;
- placing the employee on paid administrative leave;
- placing the employee on unpaid administrative leave; or
- terminating the employee.

Employee Status after Adjudication: Once the indictment or information is dismissed or fully adjudicated without trial, and if tried, until the trial and appeal (if any) are computed and all related administrative matters are completed, the Department Director will determine, in conjunction with the City Administrator the status of the employee. An employee on administrative leave may, in the City's sole discretion, be reinstated to the position held before being placed on administrative leave (if available), if the indictment or information is dismissed, the employee is acquitted, or the conviction is reversed on appeal.

Disciplinary Action: Disciplinary action may be pursued concurrently or in place of the above options or imposed at a later date. Multiple violations of law or confinements within a prescribed time period may also result in disciplinary action.

Violations of Law Discovered through Criminal History Check: The City may conduct criminal history checks on existing employees at any time during their employment, for any

reason. Conduct constituting an offense, arrest or conviction that is discovered may result in disciplinary action, up to and including termination.

Other Policies: This policy should not be construed to limit disciplinary action that may be taken in accordance with other Personnel Policies and Procedures, department policies, or other city-wide policies.

In addition to the policy above, Fire and Police personnel are subject to additional departmental policies and procedure and state regulations related to their professions and certifications.

CITY PROPERTY/EQUIPMENT USE

The City attempts to provide employees with adequate tools, equipment, vehicles and facilities for the job being performed, and the City requires all employees to observe safe work practices and lawful, careful and courteous operation of vehicles and equipment. Any City-provided safety equipment must be used at all times.

From time to time, the City may issue various equipment or other property to employees, e.g., credit cards, keys, tools, security passes, manuals, written materials, uniforms, cell phones, computers, and computer-related equipment. Employees are responsible for items formally issued to them by the City, as well as for items otherwise in their possession or control or used by them in the performance of their duties. At the time of issuance, employees may be required to sign certain forms or other documentation evidencing their receipt of property and/or equipment. Employees may be invoiced by the City for the cost of lost, damaged, or unreturned items. In addition, the City may take any other action it deems appropriate or necessary to recover and/or protect its property.

Employees must notify their supervisor immediately if any vehicle, equipment, machinery, tools, etc. appears to be damaged or defective, or are in need of repair. The appropriate supervisor can answer questions about an employee's responsibility for maintenance and care of equipment used on the job. The improper, careless, negligent, destructive, unauthorized, or unsafe use or operation of equipment will result in disciplinary action.

Personal Use Prohibited. City property, materials, supplies, tools, equipment or vehicles may not be removed from the premises or used for personal business without prior written approval by the City Administrator, or the Department Director.

Tobacco Use/Smoking Prohibited. All City buildings are tobacco free zones. Use of any tobacco products (smoke or smokeless) may result in dismissal for cause. The first offense may be a verbal warning; the second offense may be a written warning and two-day suspension without pay; a third offense may result in a one-week suspension without pay; a fourth offense may result in dismissal for cause. The use of all cigarette or cigar tobacco products of any kind, including smokeless electronic cigarettes is prohibited at any time in City buildings and other facilities, in City vehicles, while using City equipment, and as otherwise directed. Employees may smoke or use tobacco products on their rest breaks outside of City buildings in designated smoking areas. Smoke or tobacco breaks which are excessive in frequency or length will be treated as an attendance issue.

Vehicle Allowance. An employee may be given a monthly allowance for consistently using such employee's own vehicle for City business if the use is deemed necessary by the City Council. The amount of the allowance shall be determined by the City Council.

Take Home Vehicles. A City vehicle may be assigned to a position or employee when it is more economical than payment of a car allowance or mileage reimbursement. To be eligible for assignment of a take-home vehicle, an employee must be subject to emergency call back during off duty hours to locations other than the employee's normal work station. No personal use of a

take-home vehicle is permitted except to commute to and from home or work. A City vehicle is not to be used for personal business such as going to the bank, grocery store, etc. without prior written approval of the City Administrator or Department Director. No alcoholic beverages are allowed in City vehicles. No passengers may be transported in take-home vehicles except as required by official duties.

If approved by the City Council, use of a City owned vehicle may be included within a contract of employment and may be exempt from this policy.

The City's vehicles are classified as either "exempt" or "non-exempt" as prescribed by law. Most pickups, vans and automobiles are classified as "non-exempt" vehicles. Employees to whom a "non-exempt" vehicle is assigned for take-home may incur a federal income tax liability for the benefit of commuting to and from work in a City vehicle. Police and fire vehicles used by employees on call 24-hours are normally exempt from the benefit tax liability.

Use of City Vehicles. City-owned or leased vehicles may be used only for official City business. City owned or leased vehicles may only be driven by authorized City employees. If an employee drives a personal vehicle, or a City-owned, rented or leased vehicle on the job or while carrying out City-related business, the employee must comply with the following:

- Drivers must have a valid State of Texas driver's license appropriate for the vehicle operated, must maintain a satisfactory driving record, and must inform their supervisor of any change in status.
- Always observe all posted laws and speed limits.
- Always wear seat belts when the vehicle is in operation.
- No passengers other than City employees or others on City business may ride in a City vehicle unless otherwise approved in advance by the City Administrator or Department Director.
- No personal use of City-provided vehicles is allowed without the prior, specific approval of the City Administrator or Department Director.
- All maintenance and use records for City vehicles must be completed as directed by the employee's supervisor.
- Report any broken, missing, or worn parts, tires, etc., or any needed maintenance of City vehicles to the appropriate supervisor immediately.
- All drivers must be eligible for coverage under the City's insurance policy.
- Drivers covered by Department of Transportation (DOT) regulations must comply with the DOT regulations at all times.

- AT NO TIME MAY AN EMPLOYEE UNDER THE INFLUENCE OF ALCOHOL OR A PRESENCE IN THE SYSTEM OF ILLEGAL DRUGS DRIVE A CITY VEHICLE OR A PERSONAL VEHICLE WHILE CONDUCTING CITY BUSINESS.
- EMPLOYEES INVOLVED IN AN ACCIDENT WHILE OPERATING A CITY VEHICLE, OR WHILE OPERATING A PERSONAL VEHICLE ON CITY BUSINESS, MUST IMMEDIATELY NOTIFY THE PROPER LAW ENFORCEMENT AGENCY (IF APPLICABLE) AND THE APPROPRIATE SUPERVISOR, DEPARTMENT DIRECTOR, AND/OR CITY ~~MANAGER~~ ADMINISTRATOR. ACCIDENT REPORTS, ALONG WITH ANY LAW ENFORCEMENT REPORT, MUST BE FILED BY THE EMPLOYEE WITH THE DEPARTMENT DIRECTOR AND THE ~~DIRECTOR OF HUMAN RESOURCES~~ CITY ADMINISTRATOR.
- ANY EMPLOYEE WHO RECEIVES A TRAFFIC VIOLATION WHILE OPERATING A CITY OWNED VEHICLE OR THEIR PERSONAL VEHICLE WHILE PERFORMING CITY BUSINESS SHALL REPORT ALL TRAFFIC VIOLATIONS.

The City may, at any time, check the driving record of a City employee who drives as part of the job duties to determine that the necessary qualifications are maintained as a City driver. Employees must cooperate in giving the City whatever authorization is required for this purpose.

The above is not a complete and exhaustive list of vehicle use policies. Violations of any of the specific items listed, as well as the improper, careless, negligent, destructive, unauthorized, or unsafe use or operation of a vehicle, may result in loss of driving privilege or disciplinary action.

Personal Property. All employees shall be solely responsible for their personal property at all times.

CELL PHONE USE IN THE WORKPLACE

The City recognizes that many employees bring cell phones to work. Cell phones may belong to the employee or be provided for the employee's use by the City. Employees may not use personal cell phones, including those with a texting, camera and/or video playing capability during work time except for occasional use that does not interfere with the employee's productivity level. Employees who use cell phones to violate City policy, including the City's Sexual and Other Unlawful Harassment Policy, will be subject to disciplinary action.

Except in emergency circumstances, employees should not use a cell phone while operating a motor vehicle, including both making and receiving phone calls and texting. All employees must, when asked by the City, consent to a request to provide the City access to all city issued cell phone and text message records used for City business purposes. Employees using City-issued cell phones have no expectation of privacy in cell phone calls, pictures, or text messages on these phones. Limited personal use of a City issued cell phone is permitted. However, all may be subject to the Public Information Act.

PUBLIC INFORMATION ACT

Employees are advised that records related to calls, text messages, pictures and videos made and received on City owned cell phones or business calls made on personal cell phones are public information. Information related to telephone numbers called, length of call, and time and date of call as well as the text message, picture and video itself may be obtainable through the Texas Public Information Act, except in narrowly defined circumstances.

MONITORING OF CELL PHONE CALLS

Employees should be aware that cell phone calls are not secure and can be monitored. It is a crime for a third party to intentionally monitor cell phone conversations without the consent of one of the parties to the conversation.

Inadvertent monitoring of private cellular conversations is possible. Caution should be used whenever confidential or sensitive information must be discussed on a City-provided cell phone.

ELECTRONIC COMMUNICATIONS AND SYSTEMS ACCESS USE

The City may provide computer networks, Internet access, instant messaging, email, telephones, cell phones, digital cameras, voice mail, and fax communication systems for use by City employees in the performance of their job duties. These communication devices are referred to collectively in this policy as “electronic communications systems” or “systems.” These electronic communications systems are designed to support and enhance the communication, research and information capabilities of City employees and to encourage work-related communication and sharing of information resources within the City. This policy governs user behavior pertaining to access and usage of the City’s electronic communications systems. This policy applies to all City employees, contractors, volunteers and other affiliates who use the City’s electronic communications systems. The City’s electronic communications systems access must be used in a professional, responsible, efficient, ethical and legal manner.

Internet, Instant Message and email access. Users desiring Internet, instant messaging and/or email access must obtain written permission from their Department Director and provide it to the City Administrator or designee. Users must acknowledge an understanding of this policy and its guidelines as a condition of receiving an Internet, instant message and/or email access account. Failure to adhere to this policy and its guidelines may result in suspending or revoking the offender's privilege of access and/or other disciplinary action under City policies, up to and including termination of employment.

Acceptable Use. Acceptable uses of the City’s electronic communication systems are limited to those activities that support reference, research, internal/external communication and conducting City business in line with the user's job responsibilities. Network users are encouraged to develop uses which meet their individual needs and which take advantage of the City’s internal network function. The City prohibits connection to sites or forwarding of information that contain materials that may be offensive to others including, but not limited to, sites or information containing sexually explicit material.

Users must understand that use of any City-provided, publicly accessible computer network such as the Internet, instant messaging and email is a privilege. Personal use of City electronic media is not permitted. Supervisors cannot alter the restrictions of this policy.

Unacceptable Uses of Electronic Communications Systems include:+

- Using profanity, obscenity, or other language which may be offensive or harassing to other coworkers **or** third parties.
- Accessing, displaying, downloading, or distributing sexually explicit material.
- Accessing, displaying, downloading or distributing profane, obscene, harassing, offensive or unprofessional messages or content.
- Copying or downloading commercial software in violation of copyright law.
- Using the systems for financial gain or for any commercial activity unrelated to City business.
- Using the systems in such a manner as to create a security breach of the City network.

- Looking or applying for work or business opportunities other than for internal City postings.
- Accessing any site, or creating or forwarding messages with derogatory, inflammatory, or otherwise unwelcome remarks or content regarding race, religion, genetics, color, sex, national origin, age, disability, age, physical attributes, or veteran status.
- Transmitting or sharing information regarding a coworker's health status without permission
- Expressing opinions or personal views that could be misconstrued as being those of the City.
- Expressing opinions or personal views regarding management of the City ~~of~~or
- other political views
- Using the electronic communication systems for any illegal purpose or in any way that violates City policy or is contrary to the City's best interest.

Filtering. The City may use software to filter Internet and instant message content for all employees. These filters are designed to prevent the viewing, sending, or access to any of the following types of content:

- Violence/Profanity
- Full or partial nudity
- Sexual or deviant acts
- Satanic/Cult
- Militant/Extremist
- Illegal activities

The City will review this filtering on a periodic basis and may modify this list of prohibited content without notification to City employees, contractors, volunteers or other affiliates. The City Administrator (or designee) may grant exceptions and exemptions to Internet and instant messaging filtering only after a review of the requested information has been conducted and a determination that the City's current filtering practice impedes the requestor's ability to perform his/her job duties.

Responsibility. The person in whose name a City provided Internet, email or other electronic communications system account is issued is responsible at all times for its proper use, regardless of the user's location. Exchanges that occur in the course of conducting City business on the City's electronic communications systems will be considered a communication of the City and held to the same standards as formal letters.

No Right of Privacy/Monitoring. Users of City electronic communications systems may not assume they are provided any degree of anonymity and employees have no right to privacy with regard to such systems. Personal passwords are not an assurance of confidentiality. To ensure proper use of its electronic communications systems, the City will monitor their use. Management staff has the ability and will, with or without advance notice, monitor and view usage, including but not limited to: employee email, voice mail and instant messages, text messages, information and material transmitted, received or stored using City systems and user Internet access and usage patterns to assure that the City's Internet resources are devoted to maintaining the highest levels of productivity, as well as proper use and compliance with this policy.

Copyright Restriction. Any software or other material, including music, downloaded into a City computer may be used only in ways consistent with the licenses and copyrights of the vendor, author or owner of the material. Prior written authorization from the City Administrator or designee is required before introducing any software into the City's computer system. Employees may not download entertainment software, games or any other software unrelated to their work.

POLITICAL ACTIVITY

City employees will not be appointed or retained on the basis of their political support or activities. City employees are encouraged to vote and to exercise other prerogatives of citizenship consistent with state and federal law and these policies. No City employee is prohibited from becoming a candidate for public office.

City employees are prohibited from the following activities:

- Publicly endorse or campaign in any manner for any person seeking a City public office while on duty, during business hours or while wearing clothing identifying as a city employee-
- Use the employee's position or office to coerce political support from employees or citizens.
- Use the employee's official authority or influence to interfere with or affect the result of a campaign issue, an election or nomination for public office.
- Use working hours or City property to be in any way concerned with soliciting or receiving any subscription, contribution or political service to circulate petitions or campaign literature on behalf of an election issue or candidate for public office in any jurisdiction.
- Contribute money, labor, time or other valuable thing to any person for City election purposes, except as permitted by law.
- Hold an appointive or elective office of public trust where service would constitute a direct conflict of interest with City employment, *e.g.* City of McLendon-Chisholm City Council or any similar position. Upon being elected to such an office, an employee must immediately resign or will be dismissed upon - failure to do so.

SEXUAL AND OTHER UNLAWFUL HARASSMENT

All City employees are entitled to a workplace free of unlawful harassment by management, supervisors, co-workers, citizens, and vendors. This means that each employee must be respectful of others and act professionally. City employees are also prohibited from engaging in unlawful harassment of other employees, citizens, vendors, and all other third parties.

Sexual Harassment. All types of sexual harassment are prohibited. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
- submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Sexual harassment does not require sexual attraction or interest. This policy prohibits sexual advances and requests for sexual favors, sexual jokes and innuendo; comments about bodies, sexual prowess, sexual preferences, sexual experiences or sexual deficiencies; leering, whistling, or touching; verbal abuse of a sexual nature, including insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures, including nudity and pornography; and all inappropriate conduct of a sexual nature, whether it be physical, verbal or visual conduct.

Other Prohibited Harassment. In addition to the City's prohibition against sexual harassment, harassment on the basis of any other legally protected characteristic is also strictly prohibited. This means that verbal or physical conduct that singles out, denigrates, or shows hostility or aversion toward someone because of race, religion, color, national origin, age, disability, genetics, veteran status, citizenship, or any other characteristic protected by law is also prohibited.

Prohibited conduct includes, but is not limited to, epithets, slurs and negative stereotyping; threatening, intimidating, or hostile conduct; denigrating jokes and comments; and writings or pictures, that single out, denigrate, or show hostility or aversion toward someone on the basis of a protected characteristic. Conduct, comments, or innuendoes that may be perceived by others as offensive are wholly inappropriate and are strictly prohibited.

This policy also prohibits sending, showing, sharing, or distributing in any form, inappropriate jokes, pictures, comics, stories, etc., including but not limited to via facsimile, e-mail, cell phone or other electronic devices, social media, and/or the Internet, such as YouTube and Facebook.

~~Harassment of~~ Harassment of any nature, when based on race, religion, color, sex, national origin, age or

disability, genetics, veteran status, citizenship or any other characteristic protected by law is prohibited and will not be tolerated.

This policy applies to City employees, citizens, vendors, and other visitors to the workplace.

Mandatory Reporting. The City requires that employees report all perceived incidents of harassment, regardless of the offender's identity or position. Any employee who observes or otherwise learns of possible harassment in the workplace or who feels that harassment has occurred or has been subjected to conduct prohibited by this policy must report it immediately to:

- the Department Director or City Administrator;

Any supervisor, manager, or Department Director who becomes aware of possible conduct prohibited by this policy must immediately advise the Department Director and /or the City Administrator.

Under this policy, an employee may report to and/or contact the current City Attorney directly, without regard to the employee's normal chain of command if the complaint involves the City Administrator or an elected official.

[Name]

[Title]

[Work address]

[Telephone number]

f

[E-mail]

~~Voice messages or e-mails may be left at any time.~~

Investigation. All reports of prohibited conduct will be investigated promptly and in as confidential a manner as possible. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have other relevant knowledge. All employees are required to cooperate with the investigation and to maintain confidentiality.

Retaliation Prohibited. Retaliation against employees who make a good faith charge or report of prohibited conduct or who assist in a complaint investigation is prohibited. Acts of retaliation must be reported immediately as set out above.

Responsive Action. Misconduct constituting harassment or retaliation will be dealt with appropriately. Discipline, up to and including dismissal will be imposed upon any employee who is found to have engaged in conduct prohibited by this policy. Likewise, disciplinary action will be imposed in situations where claims of prohibited conduct were untruthful, fabricated or exaggerated or when employees are untruthful during an investigation.

SOCIAL MEDIA POLICY

An employee's use of social media, both on and off duty, must not interfere with or conflict with the employee's duties or job performance, reflect negatively on the City or violate any City policy. The intent of these standards is to regulate the creation and distribution of information concerning the City, its employees and citizens through electronic media, including, but not limited to online forums, instant messaging and internet social media and blogging sites. This policy is designed to protect the City's reputation and ensure that an employee's communications not only reflect positively on the employee as an individual, but also on the City.

The term "social media" encompasses: tweets and twittering, Facebook, LinkedIn, blogs, and other online journals and diaries; bulletin boards and chat rooms, microblogging and all other social networking sites, instant messaging and the posting of video on YouTube and similar media.

Use of City's Internet

Use of the City's Internet is a privilege and City employees must responsibly and ethically use it. The City may monitor an employee's access, use, and postings to the City's Internet to: ensure compliance with internal policies; support the performance of internal investigations; assist management of information systems; and for all other lawful purposes. The City expects all employees to follow the Guidelines below when posting information on the City's Social media sites.

Other City Policies

This policy should be read and interpreted in conjunction with other City policies, including but not limited to, policies prohibiting harassment, discrimination, offensive conduct or inappropriate behavior. Violations of the Social Media Policy may lead to disciplinary action.

EMPLOYEE GUIDELINES: Use of City's Social Media on Work Time

Any blogging or posting of information on the Internet or other City social media sites must comply with the City's guidelines, regardless of where the blogging or posting is done.

- Blogging, or posting information of a personal nature on the Internet or other City social media sites is prohibited during work hours. Employees are not permitted to engage in social networking of a personal nature while using any of the City's electronic social media sites.
- Employees must obtain written authorization from the City Administrator to update or post on social media sites on behalf of the City and all content must be approved prior to posting. All of the employee's time spent updating or posting on City social media sites as part of the employee's job duties is compensable time that must be reported and counted in the calculation of overtime.

- No use of social media on work time and on City equipment on City-operated networks is considered private or confidential, even if password protected or otherwise restricted. The City reserves the right to access, intercept, monitor and review all information accessed, posted, sent, stored, printed or received through its communications systems or equipment at any time.
- Never disclose any confidential information concerning another employee of the City in a blog or other posting to the Internet. Posting of confidential information may violate state law and subject the user to criminal penalty. All requests for City documents must be processed through the Public Information Act.
- Employees must abide by all federal and state law and policies of the City with regard to information sent through the City's Internet.
- Individual supervisors do not have the authority to make exceptions to these guidelines.

EMPLOYEE GUIDELINES: Use of Personal Social Media While not on Work Time

The City recognizes that many City employees utilize social media when not at work. The City requires that employees be aware of guidelines regarding posting of work-related information on personal social media sites, and they are listed below.

- If the employee's social networking includes any information related to the City, the employee must make it clear to the readers that the views expressed are the employee's alone and not reflective of the views of the City.
- Employees are encouraged to act responsibly on and off duty, and to exercise good judgment when using social media. Recognize that postings on your social media site, even if done off premises and while off duty, could have an adverse effect on the City's legitimate business interests.
- Respect coworkers and the City. Do not put anything on your personal social media site that may defame, embarrass, insult, demean or damage the reputation of the City or any of its employees, or elected/appointed officials.
- Do not put anything on your personal social media site that may constitute violation of the City's Harassment policy. Do not post any pornographic pictures of any type that could identify you as an employee of the City. Be mindful that the City's harassment policy covers both work and non-work time, including postings on social media sites.
- Do not post pictures of yourself or others on your personal social media site containing images of City uniforms or insignia, City logos, City equipment or City work sites.
- Do not post information on your personal social media site that could adversely impact the City and/or an employee of the City including ~~Do not post~~ derogatory comments.

- Do not permit or fail to remove postings violating this policy, even when placed by others on your social media site.

INCLEMENT WEATHER/EMERGENCY CLOSING

All City employees, whether exempt or nonexempt, are expected to make a sincere effort to report to work during inclement weather conditions or other emergency -situations.

If an employee determines that the weather conditions constitute a danger to life and/or property, the employee must notify the immediate supervisor and/or Department Director and make arrangements to report to work if weather conditions improve. Any leave taken due to inclement weather can be flexed or charged to vacation or compensatory time. Regular full-time and part-time nonexempt employees who are unable to flex their time and who have no accrued vacation or compensatory time available will not be paid for the time missed.

The Department Director/immediate supervisor is responsible for seeing that City services are staffed while City offices are open for business during inclement weather or emergency conditions. Any City service that cannot be provided during inclement weather or other emergency conditions must be immediately reported to the City Administrator's Office.

When weather or other conditions are such that the City Administrator declares certain City offices/departments officially closed, all affected personnel, i.e., those non-essential employees who were scheduled to work during the time of closure, will be granted "administrative leave" for the time the office/department is closed. Essential personnel must report to work even when other City departments are officially closed due to weather or other type of extraordinary circumstances. Essential personnel required to be on the job regardless of adverse weather or other conditions are designated by the Department Director and/or the City Administrator. -Essential personnel who fail to report to work may be subject to disciplinary action up to and including termination of employment. Employees are required to sign an acknowledgement form that they have received notice of their designation of essential or non-essential status and requirement to work during inclement weather at time of employment.

JURY DUTY

The City provides paid leave to regular full-time and regular part-time employees required to serve on jury duty or requested to testify as a witness by the City in a City-related civil, criminal, legislative, or administrative proceeding. Court appearances for testimony, investigation, and court preparation as a result of official duties as a City employee (e.g., police, fire, inspections, animal control, etc.) are compensated as actual hours worked and are not classified as paid leave. In all other cases, employees are required to schedule accrued vacation, holiday or compensatory leave; otherwise a nonexempt employee's time off to testify will be considered a leave without pay.

The employee must provide documentation of the requirement for jury duty, subpoena compliance, etc., with the leave request along with supporting documentation to their supervisor as soon as possible so that arrangements can be made to accommodate the absence.

An employee who is on jury duty typically must report for City duty for the remainder of the day upon completion of court or jury service, or request approval for use of other available paid time off. Any payment for jury duty received by the employee may be retained by the employee.

Jury duty leave is paid at the employee's base rate at the time of leave and does not include overtime or any other special forms of compensation.

SEARCHES

The City may conduct unannounced searches or inspections of the work site, including but not limited to City property used by employees such as lockers, file cabinets, desks, and offices, computer and electronic files, social media sites, City issued cell phones, text messages, whether secured, unsecured or secured by a lock or password provided by the employee. An employee has no expectation of privacy when using City property. No supervisor has the authority to deviate from City policy. If reasonable suspicion exists, the City may also conduct unannounced searches or inspections of the employee's personal property located on City premises, including vehicles parked on City parking lots.

All searches must be authorized and conducted under the direction of the City Administrator. Any searches of personal vehicles will be witnessed by law enforcement personnel. Employees who refuse to cooperate with a search may be subject to disciplinary action up to and including termination.

WEAPONS CONTROL AND VIOLENCE PREVENTION POLICY

The City strives to provide a safe and secure working environment for its employees. This policy is designed to help prevent incidents of violence from occurring in the workplace and to provide for the appropriate response when and if such incidents do occur.

Zero Tolerance. This policy prohibits harassment, intimidation, threats, and violent behavior by or towards anyone in the workplace, that is in any way job- or City-related, that is or might be carried out on City-property, or that is in any way connected to the employee's employment with the City, whether the conduct occurs on-duty or off-duty. The City has a zero tolerance policy for this type of misconduct.

Weapons Banned. Only employees licensed by State of Texas to carry a handgun may have a handgun on City property.

Mandatory Reporting. Each City employee must immediately notify his/her supervisor, Department Director, the City Administrator and /or the Rockwall County Sheriff's Office of any act of violence or of any threat involving a City employee that the employee has witnessed, received, or has been told that another person has witnessed or received. Even without an actual threat, each City employee must also report any behavior that the employee regards as threatening or violent when that behavior is job-related or might be carried out on City property, a City-controlled site or City job site, or when that behavior is in any manner connected to City employment or activity. Each employee is responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior and the person or persons threatened or the target of the threatening behavior. A supervisor who is made aware of such a threat or other conduct must immediately notify his/her Department Director and the City Administrator.

Protective Orders. Employees who apply for or obtain a protective or restraining order which lists City locations as being protected areas must immediately provide to the City Administrator and the Rockwall County Sheriff's Office a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent. City employees must immediately advise the City Administrator of any protective or restraining order issued against them.

Confidentiality. To the extent possible, while accomplishing the purposes of this policy, the City will respect the privacy of reporting employees and will treat information and reports confidentially. Such information will be released or distributed only to appropriate law enforcement personnel, City management, and others on a need-to-know basis and as may otherwise be required by law.

City Property. For purposes of this policy, City property includes but is not limited to owned or leased vehicles, buildings and facilities, entrances, exits, break areas, parking lots and surrounding areas, recreation centers, swimming pools, and parks.

Documentation. When appropriate, threats and incidents of violence will be documented. Documentation will be maintained by the City Administrator and/or the Rockwall County Sheriff's Office.

Policy Violations. Violations of this policy may lead to disciplinary action, up to and including termination of employment. Policy violations may also result in arrest and prosecution.

SEPARATIONS

The City designates all employee separations as one of the following types:

Resignation. An employee who intends to resign is requested to notify the supervisor and/or the Director of Human Resources in writing at least two weeks prior to the last day of work. Employees who fail to give a two-week notice are typically not eligible for rehire. The supervisor is responsible for immediately notifying the City Administrator.

Retirement. An employee who intends to retire is requested to notify the Department Director, supervisor and the City Administrator, in writing at least one month prior to the date of retirement. The TMRS application for retirement must be in the TMRS office the day of intended retirement date to lock in the in-service-date.

Retiree Health Coverage. An employee who retires from City employment and who is entitled to receive retirement benefits from TMRS, may be able to purchase continued health benefits coverage for the retiree and eligible dependents unless the person is eligible for group health benefits coverage through another employer. To receive continued coverage under the plan, the employee must so inform the City Administrator on or before the date of retirement. If the employee elects to continue coverage for the retiree and/or any eligible dependents and later elects to discontinue such coverage, the retiree and/or dependent is no longer eligible for coverage. An employee can elect retiree coverage only if covered under the plan at the time of retirement. Similarly, a retiree may elect to cover only those eligible dependents who were covered under the plan at the time the employee retired. A person who was not covered under the plan at the time of the employee's retirement is not eligible for retiree coverage. The City may provide for a different monthly premium rate(s) for retirees who elect to continue health benefits coverage. The City may substitute Medicare supplement health benefits coverage as the coverage provided for a person who receives health benefits coverage, including an eligible dependent, after the date the person becomes eligible for federal Medicare benefits. A person who is entitled to retiree group health coverage must make payments for the coverage at the same time and in the same manner as current City employees.

Dismissal/Termination. The City may terminate an employee's employment as a result of unsatisfactory performance or conduct and/or violation of City policies or procedures, including a new hire who fails the orientation period. City employees who are terminated, or who resign in lieu of termination, due to unsatisfactory performance, pending results of an investigation, or conduct and /or violation of City policies or procedures, are not eligible for rehire.

Dismissal may also occur for the following:

Job Abandonment. If an employee fails to properly notify the City of an absence from work or if an employee is absent without authorization and/or notification for three or more consecutive days, the City will normally consider the employee to have abandoned employment, and the employee will be terminated.

Inability to work for an extended period of time. However, a leave of absence may be granted if it is a reasonable accommodation justified by medical necessity.

This policy will be administered consistently with the City's obligations under the Americans with Disabilities Act.

Incapacity. An employee may be terminated for incapacity when the employee no longer meets the physical or mental requirement of the job with or without accommodations. A termination for incapacity is not considered a disciplinary action. The employee may receive accrued PTO benefits if provided by policy, if any, payable upon termination.

Reductions-in-Force/Reorganization. An employee may be separated from City service when it is deemed necessary by reason of shortage of funds or work, the abolition of the position, or other material change in the duties of the organization, or for other reasons which are outside the employee's control and which do not reflect discredit upon the service of the employee.

Death. If a City employee dies, the designated beneficiary or estate will be paid all earned pay and payable benefits.



City of McLendon-Chisholm
Board, Commission and/or Committee Application

Personal Information

Name: Brian Lane
Street Address: 1630 FIRENZA CT, Rockwall, Texas 75032
Mailing Address (if different): _____ Home Phone: 214-738-8483
Work Phone: _____ Other: _____ Email Address: lane.briank@att.net
Best method to contact you: PHONE
Length of Residence in the City? 3 YEARS In ETJ? _____

Occupational Information

Occupation/Business: OWNER OF LANE HANDMAN SERVICES, LLC

Qualifications

Are you a Registered Voter? YES What Precinct? 3D

Special knowledge or experience applicable to City Board, Commission or Committee function: _____
N/A

Please list any other community activities you are involved in: (civic/hobbies) _____

Have you previously or do you currently serve on any City boards? ____ Yes ☒ No If so, list boards and dates: _____

Have you attended any Board or Council meetings? YES

Thank you for your interest in serving the City of McLendon-Chisholm. Please indicate below the Board, Commission, or Committee of interest. If interested in more than one, please rank order of preference. Please note that in addition to the regular scheduled board meetings, members may be required to attend training, work sessions, and joint meetings.

____ Board of Adjustments ☒ Planning and Zoning Commission _____ Committee
(Committee of interest)

If selected as a board, commission or committee member, I understand that information on this application is subject to the Texas Public Information Act and may be disclosed to anyone requesting this information. I understand that the act does allow a board/commission member of a governmental body to choose whether to allow public access to the information in the custody of the City that relates to the home address, home phone number, social security number, or that reveals whether the board/commission member has family members. If selected as a board/commission member of the City of McLendon-Chisholm, I choose to: () allow (X) not allow public access to my home address, home phone number, social security number, or whether I have family members.

Signed: [Signature]

Date: 2/17/2020



City of McLendon-Chisholm

Staff Report

Discussion and action regarding consideration of utilizing \$25,162 of Fire Department Capital Fund Balance for purchase of Personnel Protective Equipment for firefighters. (Requested by Chief Simmons)

DATE:

March 10, 2020

BACKGROUND OF ISSUE:

Chief Simmons is working towards gaining full compliance with National Fire Protection Agency (NFPA) Standard 1851. This new standard requires two sets of personal protective equipment (PPE), more commonly referred to as bunker gear, for every firefighter.

NFPA 1851 is intended to protect fire personnel exposed to hazardous conditions including cancer causing carcinogens from fire or other emergencies. Having two sets of gear allows firefighters to have one set ready to use and allows time for thorough cleaning of contaminated gear after use prior to putting gear back in service.

FINANCIAL IMPACT:

Chief Simmons is requesting funds in the amount of \$25,162.00 from the Fire Capital Reserve Fund to purchase 7 sets of new PPE. The new gear for purchase is two sets in one. The current Fire Capital Reserve Fund has a balance of \$325,574.91. The current Fund Balance Policy requires Council authorization for use of any reserve funds. If approved, this expenditure will need to be reflected in a mid-year budget amendment.

RECOMMENDATION:

Consider authorizing Fire Chief Simmons to utilize funds from the Fire Capital Reserve Fund for purchase of \$25,162 of personnel protective gear.

Lisa Palomba, City Administrator

Estimate

Fire Gear Services
1225 CR 1225
Lampasas, Texas 76550

Name/Address

McLendon-Chisholm Fire Department
Chief James Simmons
1250 South Highway 205
Rockwall, Texas 75032

Date	Estimate No.	Project
11/17/19	VK1002	

Item	Description	Quantity	Cost	Total
MC101	MACS Part X Bunker Gear, Coat Style 1111, Pant 1111 Hainesworth Titan, Black, With additional outer shell, Mollie Coat Attachments	7	3,100.00	21,700.00
Nano Fire Hoods	Viking Fire Hoods-Nano Flex Technology	10	97.00	970.00
BD Leather 0912	Black Diamond X2 Leather Boot	7	305.00	2,135.00
Fire Wipes	Fire Wipes case	1	230.00	230.00
Disposable Cleaning Bags	Disposable cleaning bags for PPE	1	127.00	127.00
	Sales Tax		0.00%	0.00

Total	\$25,162.00
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Purpose:

To establish written procedures governing the use and care of personal protective clothing under NFPA standards 1971 and 1851. Through the proper use of personal protective clothing ensure the safety of department members during fire and hazardous operations. To meet the requirements of the Texas Commission on Fire Protection, Standards Manual, Rule 435.1 and the Texas Government Code Title 4 Executive Branch, Subtitle B., Chapter 419, Subchapter B §419.040.

Policy:

It is the policy of McLendon-Chisholm Fire Rescue that all personnel are required to actively participate in a program to reduce or eliminate accidents and injuries that are caused by either not using or improperly using personal protective clothing. This is to include but not limited to cancer causing carcinogens.

As part of a goal to conform to NFPA 1500 standards whenever possible, it the policy of the FD that protective firefighting clothing will be kept in a safe and clean condition for the safety and protection of the members using such equipment. To meet this goal a maintenance and inspection program is established within this procedure.

Procedure:

It is the intent of McLendon-Chisholm Fire Rescue to provide and maintain a complete set of quality protective clothing (PPE) for all fire protection personnel who may be exposed to hazardous conditions, including but not limited to cancer causing carcinogens, from fire or other emergencies, and where the potential for such exposure exists. This policy applies to all MCFR members who may engage in emergency responses.

This policy is intended to comply with NFPA 1851 and NFPA 1971 and Texas Commission on Fire Protection standards, addressing the following areas (See breakdown at end of document):

- Record keeping system 4.3.1
- Providing instructions when PPE issued
- Risk assessment to determine proper selection of PPE
- Inspection policies
- Cleaning and decontamination procedures
- Repair policy
- Storage policy, Retirement, disposition, and special incident procedures.

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The following procedures will be utilized by **ALL** department personnel.

A. REQUIRED/ISSUED PROTECTIVE CLOTHING

All fire protection personnel will be issued the following NFPA 1971 approved equipment:

1. Helmet with Face Shield or Goggles
2. Nomex Bunker Pants with Liner
3. Nomex Bunker Coat with Liner
4. Suspenders for Bunker Pants
5. Structure Firefighting Boots
6. Nomex Hood
7. Structure Firefighting Gloves

Definitions

Complete set of protective clothing (PPE): Shall consist of garments including bunker coats, bunker pants, boots, gloves, helmets, and protective hoods.

Accessories: Those items that are attached to an ensemble or ensemble element but designed in such a manner to be removable from the ensemble or the element and that are not necessary to meet the requirements of the standard. Such accessories include but are not limited to utility belts, harnesses, backpacks, tools, tool packs, radios, radio packs, suspenders, lights, and heat sensing devices. ****No accessories on PPE without manufactures approval, including but not limited to helmets.**

Advanced cleaning: The thorough cleaning of ensembles or elements by washing with cleaning agents.

Contract cleaning: Cleaning conducted by a facility outside the organization that specializes in cleaning protective clothing.

Routine Cleaning: The light cleaning of ensembles or elements performed by the end user without tasking the elements out of service.

The above are a limited number of definitions for the purpose of this policy. Other definitions may be found in NFPA 1851, section 1.3.

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Record keeping system NFPA Chapter 4:

The MCFR will compile and maintain records on their structural firefighting protective ensembles or ensemble elements per NFPA 1851, section 4.3.

1. All Records of PPE purchase, issuance, cleaning, inspections, repair, and disposal shall be kept in Department Records.
2. The following records must be kept on each protective ensemble and ensemble element:
 - (a) Person to whom element is issued
 - (b) Date and condition when issued
 - (c) Manufacturer and model name or design
 - d) Manufacturer's identification number, lot number, or serial number
 - (e) Month and year of manufacture
 - (f) Date(s) and findings of advanced inspections(s)
 - (g) Date(s) and findings of advanced cleaning or decontamination
 - (h) Reason for advanced cleaning or decontamination and who performed cleaning or decontamination
 - (i) Date(s) of repair(s), who performed repair(s), and brief description of repair(s)
 - (j) Date of retirement
 - (k) Date and method of disposal
 - (l) Records shall be kept on any rental or loaner protective ensembles and ensemble elements
 - (m) Records of firefighting ensembles purchased with optional CBRN terrorism

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agent protection shall also be kept.

3. A copy of manufacturer's instructions regarding care, use and maintenance of the protective ensembles accompanies each new element, and should be retained for reference purposes. If a copy is not available, refer to label instructions.

4. The Department shall maintain and make available a copy of manufacturer instructions accessible to personnel.

5. Personnel shall read, understand, and follow all PPE manufacturer's instructions.

Each individual firefighter is responsible for the routine cleaning of the ensemble that they have been issued, the monthly inspection, and ensuring that the appropriate forms have been given to the officer in charge. The officer in charge will submit the forms to the Chief.

Instructions when issued PPE NFPA Chapter 4:

When issuing new structural firefighting ensembles and ensemble elements, MCFR will provide users with the instructions provided by the manufacturer on the care, use, and maintenance of their protective ensembles or elements, including any warnings provided by the manufacturer. No accessories will be added to PPE unless there is a letter for approval from the manufacturer.

MCFR will retain a copy of the manufacturer's instructions regarding the care, use, and maintenance of their protective ensembles for reference purposes. Manufacturer's ID number, lot or serial numbers, month and date of manufacturer, etc. will also be retained.

Protecting the Public and Personnel from Contamination Chapter 4.5:

All efforts will be made to minimize the public and fire personnel's exposure to soiled or contaminated PPE. PPE shall not be worn on EMS or non-emergency calls unless deemed necessary for personnel safety. PPE shall not be worn or stored in living quarters or bay areas. When not placed on apparatus, PPE shall continue to stay in the gear room, designed solely for PPE storage. PPE shall not be brought in personnel's home, should not be transported in the passenger compartment of personal vehicles, washed in home or public laundries. Any health or safety concerns regarding any component of the PPE ensemble shall be reported to MCFR Supply officer and Chief immediately through the chain of command. MCFR Administration shall notify the

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manufacturer and the certification organization in writing of the documented health or safety concerns. This notification shall request that within 30 days the manufacturer and certification organization return a written acknowledgement of the health or safety concern.

Risk assessment to determine proper selection of PPE NFPA Chapter 5:

Structural firefighting ensembles and ensemble elements purchased by MCFR will meet or exceed requirements of NFPA 1971/1194 compliant and are certified as being compliant with NFPA 1971 by a third-party certification organization, according to Selection and Purchase chapter 5 of NFPA 1851.

APPARATUS DRIVERS

Drivers will be allowed to respond without wearing structural protective clothing to ensure the safe operation of the vehicle. Upon arrival, if exposure hazards exist, drivers shall immediately don appropriate protective equipment.

INSPECTION POLICIES NFPA 1851 Chapter 6:

Inspection:

1. All protective clothing items are inspected on a routine and annual basis. Protective ensemble elements that have been properly stored in accordance with NFPA 1851 Chapter 9 and are not being used are not subject to the advanced inspection.
2. General instructions that apply to all items:
 - (a) "Soiled" means the item is visually dirty or dirty to the touch, such as after a structure fire.
 - (b) "Contaminated" means the item is known to have contacted a hazardous material, blood, other body fluid, or biological agent
 - (c) "Possibly contaminated" means the item was used at a specific incident, and in such a manner, it is reasonable to expect that the item may have been exposed to a hazardous material, blood, other body fluid, or biological agent.

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- (d) Universal precautions shall be observed when inspecting soiled or potentially soiled garments.
 - (e) Any items that are soiled, contaminated, or suspected of being contaminated must be cleaned and/or decontaminated before any additional inspection is conducted.
 - (f) Any PPE items found to be defective or in unserviceable condition shall be removed from service and repaired or replaced.
 - (g) If the end user, or Officer in Charge has any questions about the safety and/or serviceability of any PPE item, it should be removed from service until the issue is addressed.
3. Routine Inspection - End users shall inspect all their structural firefighting protective clothing ensemble items at a time of issue and after each use that potentially exposed the items to physical damage, soiling, or contamination.
- (a) Examples of uses that require this inspection include, but are not limited to:
Active participation in a structure fire, car fire, motor vehicle collision patient extraction and certain training exercises. Examples of uses that do not require this inspection include response to false alarms, MVC's when not directly involved in extraction, and medical calls where not directly involved in patient care. If there was no potential for soiling, contamination, or damage an inspection is not required.
4. Annual Advanced Cleaning and Advanced Inspection - The annual inspection is an advanced inspection requiring an increased level of attention and recordkeeping than a routine inspection. the advanced inspection of the coats, pants, drag rescue device (DRD), hoods. gloves, helmets and boots are performed in conjunction with the annual advanced cleaning.
5. Each protective clothing item (coats. pants, DRD, helmets, hoods, gloves, and boots) must be advanced inspected annually. All ensemble elements are inspected by an outside Independent Service Provider). The Department shall choose an ISP that conducts advanced inspections that re compliant with the most recent NFPA 1851 Chapter 6 standard.

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6. All ensemble elements - All ensemble elements are cleaned and inspected by an independent service provider annually. Set one shall be sent in March and set two shall be sent in September.
7. The advanced cleaning and advanced inspection of ensemble elements shall be done as follows:
 - (a) All personnel shall have their ensemble elements ready for pick-up by the department's ISP when notified by the department's Administrative Sergeant or Administrative PSO. The end user disassembles gear. Disassembly includes:
 - I. Ensuring name is on all pieces.
 - II. Close all closures (Velcro, zippers, hooks).
 - III. Place in clear bag with completed ISP (Independent Service Provider) PPE Ticket.
 - (b) Upon receiving the gear back and before returning to the end user, the department's Administrative Sergeant or Administrative PSO will record the advanced cleaning, inspection, and repairs made to the coats and pants in the department's set tracking Software.
 - (c) A complete line inspection shall occur after an ensembles' first three years in service and annually thereafter. The liner shall be hydrostatically tested and documented by the Department's Independent Service

CLEANING AND DECONTAMINATION PROCEDURE NFPA 1851 Chapter 7:

1. To ensure the highest level of protection, and to reduce the possibility of cross contamination within our department and to our customers, it is imperative that all protective clothing items be evaluated after each use and kept clean. Therefore, all items of protective clothing shall be cleaned in the manner described in the following instructions any time they become soiled. All PPE ensemble elements shall be cleaned in accordance with the manufacturer's recommendations.
2. General Instructions that apply to all items:
 - (a) Universal precautions shall be observed when handling soiled or potentially soiled garments.
 - (b) When possible initiate cleaning at the incident scene by brushing off any dry debris and/or gently rinsing off debris with low-pressure water hose.

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- (c) Elements that remain soiled or are potentially contaminated with body fluids must be:
 - i. isolated by bagging them
 - ii. not transported in the apparatus cab
 - iii. advance cleaned
 - (d) Chlorine bleach and other chlorinated solvents shall not be used.
 - (e) Cleaning and decontaminating solutions shall have a pH of no less than 6.0 and no more than 10.5.
 - (f) Spraying with high velocity water jets such as a power washer shall not be used, and water temperatures shall not exceed 105F.
 - (g) PPE shall only be cleaned in the extractor room sink, the extractor, and PPE dryer. Do not use the station's domestic duty washer or dryer to launder any protective item.
 - (h) Dry PPE items per manufacturer recommendations or in well ventilated areas and never in direct sunlight.
3. While helmets, hoods, gloves, and boots can be cleaned in the utility sink or small plastic tub, coats and pants must be cleaned in the commercial extractor provided by the Department. There are specific rules regarding washers/extractors outlined in NFPA 1851. Therefore, only trained personnel shall supervise correct procedures for advance cleaning of ensemble items. Refer to garment label and user guides for more information.
 4. Routine Cleaning - Routine cleaning is conducted by the end user and no permanent records are kept. Examples include brushing off dry debris with a water hose, and spot cleaning by means of hand washing only. Hand washing:
 - (a) Employ universal precautions
 - (b) Use a utility sink or small plastic tub.
 - (c) Limit cleaning to soiled areas only (DO NOT IMMERSE), avoid completely wetting the garment, especially the liner.
 5. Advanced Cleaning When Soiled - If protective clothing becomes soiled, the end user shall bag and transport their gear to the station outside of the apparatus cab for advanced cleaning. Procedures that provide the greatest advantage to

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department members following exposure to carcinogens and/or an IDLH environment include:

- (a) Upon returning to the station, clean apparatus.
- (b) Personnel return to service, placing 2nd set of gear on their assigned apparatus.
- (c) Under the direction of specially trained personnel, end users shall assist with advance cleaning of all ensemble items. This process may likely continue and be concluded by members of the oncoming shift.
- (d) Disassemble gear - Disassembly includes:
 1. Ensure name or ID number is on all pieces.
 2. Remove all layers of garment.
 3. Remove the drag rescue device (DRD) and place it in the bag with the other gear.
 4. Turn liner inside out, stitching out, slick vapor barrier in.
 5. Close all closures (velcro, zippers, hooks).
- (e) Place all items in a clear bag in the engine bay for washing.
- (f) On-duty Captain will assist the Supply officer and in tracking and recording the advanced cleaning on provided forms.
- (g) Reassemble gear
 6. Annual Advanced Cleaning
 - (a) Each item (coats, pants, DRD, helmets, hoods, gloves, and boots) must be advanced cleaned whether it is determined to be soiled or not. The coat, pants, hoods, and gloves are scheduled for cleaning throughout the year in conjunction with the annual advanced inspection.

Post Fire Decontamination:

Definitions:

Carcinogen- any substance that causes cancer

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Contaminant- substance which, in sufficient concentration, can adversely affect a living organism

Decontamination- removal of contaminants

Wet Decon- removal of the contaminants due to products of combustion

A. On Scene Decon

1. All interior personnel will decon their gear after fireground activities are complete and before entering apparatus to clear the scene as follows:
 - a. Connect the water hose to the discharge at lowest pressure setting
 - b. Use a brush to scrub off debris
 - c. Rinse PPE off with the water hose, at a downward angle, connected to pump discharge at lowest pressure setting
 - d. Remove all contaminated PPE and place in a compartment on the apparatus
2. Wet decon is required anytime PPE is exposed to products of combustion or other contaminants while on scene
3. If available, the FF will swap out for a second set of gear to maintain readiness
4. The next oncoming shift is responsible for washing the gear

B. Rehab Decon

1. PPE will be removed during rehab and decontaminated
2. Department provided wipes will be used to remove contaminants from face, neck, ears, arms and hands

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C. Return to Station Decon

1. Shower as soon as possible upon arrival at the station
2. Duty uniforms will be changed and washed as soon as possible
3. Apparatus seats will be cleaned and decontaminated after calls with exposure to products of combustion
4. Personal vehicles are not permitted to shuttle gear or contaminated personnel from the scene back to the station

Repairs NFPA 1851 Chapter 8:

Ensembles or ensembles that are worn, damaged or contaminated shall be removed from service, and tagged with problem description and name of wearer. Garment will be repaired by a manufacturer recognized repair facility consistent with the manufacturer's instructions and methods.

1. No end users' repairs will be made to any of the PPE ensemble elements. Coats, pants and helmets in need of repair must be sent to the Department ISP where all repairs must meet NFPA 1971/1994 standards, using like materials and components approved by the manufacturer. Hoods, gloves, and boots shall be replaced. Records must be kept on any element change including retirement, replacement, and repairs.
2. PPE Contaminated with CBRN agents shall be retired and destroyed immediately in the appropriate manner.

APPENDIX ONE

CLEANING PROCEDURES

Protective Clothing

Cleaning of protective clothing and equipment will be accomplished at least every six months for routine visible soiling, and as soon as possible after the termination of an emergency where the clothing has been soiled or has come into contact with blood or body fluids, tars, fuels, resins, paints, or other hazardous materials.

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A schedule will be established that will allow for semi-annual cleaning of all department turnout clothing.

Other protective equipment will be cleaned by the individuals to whom they are issued according to the procedures in this appendix.

Protective Gloves

1. Gloves should be washed by hand in lukewarm water using a mild, sudsy solution. To wash the gloves, put them on and rub them together, using a mild hand soap of neutral ph. A stiff bristle brush may help remove some of the imbedded grit and grime. Do not use chlorine, chlorine bleach, or other products containing chlorine, as they will degrade the fabrics, materials and thread in the protective glove.
2. Gloves should be dried by squeezing (not twisting) excess water from the glove by hand. Drying gloves may be done in a clothes dryer using low heat or the delicate/fluff cycle. Allowing the gloves to air dry may harden leather shells. After the glove has been dried, a crust or stiffness may remain. This stiffness can be removed by putting the glove on and buffing it with a scrub brush until the softness returns. ***Gloves will not be laid on radiators or dried in hot air dryers, as this severely shortens their service life and causes them to become stiff.*** They should not be stored or dried in direct sunlight, as exposure may cause degradation of the glove materials and fabrics.

Fire Fighting Helmets

1. The composite helmet shells should be cleaned with mild solvents, such as ethyl alcohol, mild detergents and water, mild abrasives, industrial cleaners, acetone or paint remover. Remove face shield/goggles before cleaning. After use of solvents, acetone, paint thinner or other petroleum-based products, wash with soap and water to remove any residue.
2. Helmets contaminated with petroleum products should be cleaned with soap and water as soon as possible. Removal of tar can be accomplished by using tar remover followed immediately with soap and water to remove the tar removing chemicals.
3. Removal of smoke stains on the shell can be accomplished by using a fine, non-chlorinated scouring compound.
4. To clean face shields and goggles, use a mild detergent and water, and a soft sponge or cloth. Do not use abrasives, solvents, paint removers, acetone, paint

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thinner, lacquer thinner or any chlorinated organic solvents. Removal of light scratching and smoke stains to face shields or goggles can be achieved through the use of a manufacturer approved scratch remover and polish.

Protective Footwear

1. Rubber and leather boots should be maintained by being cleaned after each use, making certain that any oils, dirt, dust, chemicals, etc., are wiped off with soap and water. Linings should be kept dry to prevent mildew. An anti-fungal spray may be periodically used on footwear linings.
2. The linings of all boots can be cleaned by using a mild powdered detergent and water solution. Footwear will be air dried in a well-ventilated area, away from direct sunlight.
3. On leather footwear, a leather conditioner can be used in accordance with the footwear manufacturer's instructions.

APPENDIX TWO BLOOD/BODY FLUID DECONTAMINATION PROCEDURES

1. Small stains from blood or other body fluids shall be permitted to be spot cleaned and then disinfected. The stain shall be initially spot cleaned as specified in Appendix One. The affected area shall then be disinfected only with department-provided disinfectants that are chemically compatible with the clothing.
2. Clothing that is contaminated with large amounts of body fluids shall be placed in leak-proof bags, sealed, tagged "**HAZARDOUS**" and sent for proper cleaning or disposal.
3. Personnel involved in handling protective clothing contaminated by body fluids will take appropriate universal precautions (i.e. wear gloves and gowns).

APPENDIX THREE HAZARDOUS MATERIALS DECONTAMINATION PROCEDURES

1. Gasoline, Diesel Fuel, and Other Petroleum Soils.
For petroleum-based soils, clean the protective clothing as outlined in Appendix One. Repeat the cleaning process as often as is necessary to rid the clothing of any odor of petroleum product.

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2. Other Known or Unknown Contaminants.
Exposures to known hazardous materials, or to high concentrations of unknown materials, require special attention. Once it has been determined that either of these two conditions exist, the following should be done:
 - a. The protective clothing will be removed from service, preferably in the field, doubled bagged in plastic trash bags, and labeled. The label will be marked **"HAZARDOUS"** and it will also display the owner's name.
 - b. As much information that can be obtained about the possible contaminant(s) will be gathered (i.e.; MSDS sheets of the possible contaminants, container type and shape, name and nature of the business involved, etc.) and recorded by the company officers and/or the incident commander.
 - c. The incident commander will be notified of the contamination. For unknown contaminants he will insure that a sample of any runoff be collected so that it can be tested at a later time if necessary. Using HAZMAT trained personnel to collect and analyze a sample and to provide assistance should be considered. He will then notify the Fire Chief or designee that contamination of protective fire fighter clothing has taken place. The Fire Chief or designee will have the responsibility of taking care of the clothing from this point on.
 - d. The Fire Chief or designee will gather as much information as possible in order to identify the contaminant. This information will include any that is passed on to him plus any other information that he feels necessary to gather.
 - e. With as much information as possible gathered, the Fire Chief or designee will contact a cleaning company that is authorized to perform the required decontamination.
 - f. If decontamination of protective clothing is not possible, it will be destroyed and discarded in accordance with local, state, and federal regulations.

APPENDIX FOUR DECONTAMINATION OF PERSONNEL PROCEDURES

1. All firefighters exposed to any hazardous materials are expected to conduct a field decontamination of both their PPE and their persons prior to entering any fire department apparatus or vehicles.

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2. The field decontamination will be conducted when removing personal protective equipment by wiping down the firefighter's body with provided wipes.

3. Once firefighters have returned to station and completed their cleanup of the apparatus and PPE, the firefighters are provided a shower with soap etc. in order to complete a full decontamination of their bodies. The best procedure to utilize is a good rinse with cooler water prior to washing with hot water. The reason behind this is to prevent the pores in the body from opening to allow contaminants in. Cooler water closes the pores and allows the contaminants to be washed off.

Storage NFPA Chapter 9:

Storage for ensembles and ensemble elements will be provided in accordance with NFPA 1851, chapter 9. All gear will be stored in separate climate-controlled room and will not be in living quarters.

1. PPE items shall not be stored in direct sunlight or exposed to direct sunlight when not being worn.
2. Protective clothing items shall not be stored in any airtight container unless new and unissued.
3. PPE shall not be stored in temperatures below -25 degrees F or above 180 degrees F.
4. Protective ensemble elements shall be clean and dry before storage.
5. Storage areas shall be maintained to be clean dry and well ventilated and not be situated in such a way that exposes the gear to hydraulic fluid, solvents, hydrocarbons, vapors or other contaminants.
6. Soled PPE must be placed in a protective bag or case if transported in a vehicle or taken into any living area.

Retirement, Disposition, and Special Incident NFPA Chapter 10:

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Retirement:

MCFR will retire ensembles and ensemble elements in accordance with NFPA 1851, section 10.1.

1. All PPE elements shall be retired from service no later than 10 years from date of manufacture.
2. Elements that are worn, damaged, or contaminated to the extent that they cannot be repaired or cleaned, or that it is cost ineffective shall be retired.
3. Elements that have come in contact, or suspected of coming in contact, with CBRN terrorism agents shall be destroyed.
4. The department will destroy or dispose of gear that is retired, to insure it is not used in a live fire.
5. Non-retired gear may be kept or donated to another department for training use but shall be marked "non-live fire training only" over the label to ensure that it is never used for service or live fire training.
6. Records will be maintained for three years
7. Special Incident Procedures - If any member of the McLendon-Chisholm Fire Department suffers a serious injury or death while wearing PPE, the following procedure should be followed:
 - (a) PPE will immediately be removed from service.
 - (b) Custody of the PPE will be maintained by the Fire Department Chief or authorized designee, and the PPE shall be kept in a secure location with controlled, documented access.
 - (c) All PPE shall be non-destructively tagged and stored only in paper or cardboard containers to prevent further degradation or damage. Plastic airtight containers shall not be used.
 - (d) The PPE shall be made available to the Texas State Fire Marshal, the TCFP or the department's investigation team or outside experts as approved by the Fire Department Chief or authorized designee, to determine the condition of the PPE.

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(e) The Director of Public Safety or authorized designee shall determine the retention period for storage of the PPE.

Disposition:

MCFR will dispose of ensembles and ensemble elements in accordance with NFPA 1851, section 10.2.

Special Incidents:

MCFR will retain custody of ensembles and ensemble elements in accordance with NFPA 1851, section 10.3.

Equipment Restrictions:

Turnout Coat:

Only department issued, NFPA approved turnout (bunker) coats will be used.

Helmet:

Only NFPA approved department issued or department approved helmets will be used.

Boots or Shoes:

Only NFPA approved department issued or department approved pull on, non-lace-up bunker boots will be used.

Guidelines for

Firefighter Cancer Registry Act of 2018

H.R. 931 asks firefighters to voluntarily enter their demographics and health information into a national registry in hopes that public health researchers can

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better determine the increased risk that firefighters assume. This in order to identify and screen for specific cancers along with safety protocols and safeguards.

Once registry is set up the information will be included as to how to register.

It is the McLendon-Chisholm Fire Rescues intent to safeguard all our firefighters by utilizing proper personal protective equipment and by decontamination whenever any exposure occurs.

This will be accomplished by following the above Appendix procedures for selecting the proper PPE, as well as the proper decontamination procedures for PPE and for firefighter personnel decon in field.

At all times every effort should be taken to follow policy. If you deviate from policy, inform your officer immediately, giving detail on why policy was not followed. It is paramount that decisions are based on doing the right this as well as, with the best interest of the citizens we serve in mind.



City of McLendon-Chisholm

Staff Report

Discussion and action regarding budgeting additional funds for FY 2019-2020 in the amount of \$45,000 to hire two full-time firefighters to fill SAFER Grant positions and to add a new shift 7 am to 7 pm shift to be filled by existing part-time personnel. (Requested by Chief Simmons)

DATE:

March 10, 2020

BACKGROUND OF ISSUE:

Chief Simmons recently reassessed MCFR staffing needs and has concluded it is in the best interest of the City to eliminate the Assistant Fire Chief position, add two full-time firefighter positions and add one 7 am to 7 pm shift to be filled with existing part-time personnel. The full-time positions are SAFER Grant funded positions. This staffing model allows for 3 firefighters to respond 7 am to 7 pm and allows MCFR to be compliant with National Fire Protection Agency (NFPA) and Texas Commission on Fire Protection (TCFP) rules of "2 in and 2 out" The availability of part-time and volunteer firefighters is greater after 7 pm.

FINANCIAL IMPACT:

	Salary	Benefits	Total	Date Deleted/Added	Addition/ Savings
Assistant Chief Position	\$50,000	\$2,275	\$52,275	02/28/2020	(\$30,494)
New Hire 1	\$51,866	\$8,504	\$60,370	04/01/2020	\$30,185
New Hire 2	\$51,866	\$8,504	\$60,370	04/01/2020	\$30,185
Eliminate Shared Position	\$51,866	\$1,475	\$53,341	04/01/2020	(\$26,671)
New 7 to 7 shift	\$78,840	\$1,475	\$80,315	04/01/2020	\$40,158
Total					\$43,363

\$43,363 is the expected impact to the current FY 19-20 Budget. This expense would need to be included in a mid-year budget amendment.

RECOMMENDATION:

Consider approval of funding 2 full-time positions and one new 7 am to 7 pm shift in the amount of \$43,363.

Lisa Palomba, City Administrator