



AGENDA
City Council Meeting
Tuesday, August 13, 2024
1371 WEST FM 550 - McLENDON-CHISHOLM, TEXAS 75032 5:45 PM

Page

1. CALL TO ORDER
2. EXECUTIVE SESSION

The City Council for the City of McLendon-Chisholm, Texas, reserves the right to convene into executive session at any time during the course of this meeting to discuss any of the matters listed, as authorized by Texas Government Code, Chapter 551, including but not limited to §551.961- Consultation with Attorney; §551.072 - Real Property; §551.073 - Prospective Gifts; §551.074 - Personnel Matters; §551.076 - Security Devices; §551.086 - Utility Competitive Matters; and §551.087 - Economic Development Negotiation The City Council of McLendon-Chisholm will recess into executive session to consult with the Attorney as authorized by §551.071 of the Texas Government Code.

3. RECONVENE INTO OPEN SESSION (6:30)
4. INVOCATION AND PLEDGE OF ALLEGIANCE TO U.S. AND TEXAS FLAGS
5. PROCLAMATION
Proclamation to Honor Morgan Pyatt for volunteering his services to McLendon-Chisholm city events on Memorial Day and Veterans Day.
6. ACTION AS A RESULT OF EXECUTIVE SESSION
7. RULES OF DECORUM
8. CITIZEN COMMENTS
9. CONSENT AGENDA

- 9.1. Consider approval of minutes of July 23, 2024 Council Meeting

4 - 9

[Minutes for July 23 City council meeting](#)

- 9.2. Reschedule August 27th Public Hearing- FY 25 Budget for Sept 10, 2024
- 9.3. Reschedule August 27th Public Hearing - FY 25 Tax Rate for Sept 10, 2024

10. ITEMS FOR CONSIDERATION AND ACTION

- 10.1. Discuss and consider approving the Inframark Amended and Restated

10 - 25

Service Contract for the provision of sanitary sewer, solid waste and recycling services (City Administrator)

[Inframark - McLendon Chisholm \(highlighted\)- AR Services Contract](#)

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|-------|--|---------|
| 10.2. | Discuss and consider approving a Resolution of the City Council of the City of McLendon-Chisholm Texas, establishing the City of McLendon-Chisholm meets the constitutional requirements to hold an election on the matter of adopting a home-rule Charter Commission consisting of up to fifteen(15) members including the designation of a Commission chairperson; providing for joint meetings with City Council; providing for compliance with the Texas Open Meetings Act; and providing an effective date. (Council Member Brewer) | 26 - 27 |
| | <u>Charter Resolution Version (002)</u> | |
| 10.3. | Discuss and consider nominations and appointments to the City of McLendon-Chisholm Home-Rule Charter Commission. (Council Member Brewer) | |
| 10.4. | Consideration and action regarding approval of a preliminary plat that provides for the development of 93 single-family lots on 18.672 acres of land located in the City of McLendon-Chisholm's Extra-Territorial Jurisdiction(ETJ) generally at the intersection of FM 548 and Mann Rd. (City Administrator) | 28 - 37 |
| | <u>Meraki 1C Staff Report CC 8.13.24 (002)</u> | |
| | <u>Phase 1C Plat Application (002)</u> | |
| | <u>Preliminary Plat - Phase 1C (002)</u> | |
| 10.5. | Discuss and consider an Ordinance granting Oncor Electric Delivery Company LLC, its successors and assigns, an electric power franchise to use the present and future streets, alleys, highways, public utility easements, public ways and public property of the City of McLendon-Chisholm, Texas, providing for compensation therefor, providing for an effective date and a term of said franchise, providing for written acceptance of the franchise, providing for the repeal of all existing franchise ordinances to Oncor Electric Delivery Company LLC, its predecessors and assigns, and finding that the meeting at which this ordinance is passed is open to the public. (City Administrator) | 38 - 60 |
| | <u>Staff Report - Oncor Franchise Agreement 2024</u> | |
| | <u>McClendon-Chisholm Franchise Agreement - Current</u> | |
| | <u>McLendon-Chisholm+Amendment</u> | |
| | <u>Oncor Franchise Ordinance</u> | |
| 10.6. | Discuss and consider approval of an ordinance authorizing restricted prior service credit for employees who are members of the Texas Municipal Retirement System. (City Administrator) | 61 - 62 |
| | <u>Staff Report - TMRS RPSC</u> | |
| | <u>McLendon-Chisholm TMRS Model Ordinance - RPSC</u> | |
| 10.7. | Consideration and action to approve an upgrade and maintenance of the city council chambers audio/video system. (Mayor McNeal) | 63 |
| | <u>Staff Report - AV System</u> | |

- 10.8. Discuss and consider creating an economic committee, made up of McLendon-Chisholm citizens, acting in advisory capacity for future commercial development within the city. (Mayor McNeal)

11. COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

The City Council will have an opportunity to address items of community interest including: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the City of McLendon-Chisholm; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the City of McLendon-Chisholm that was attended or is scheduled to be attended by a member of the City Council or an official or employee of the City of McLendon-Chisholm; and announcements involving an imminent threat to the public health and safety of people in the City of McLendon-Chisholm that has arisen after posting the agenda.

12. ADJOURN

I, Angela Jennings, do hereby certify that the above Notice of Meeting of the City Council of McLendon-Chisholm, Texas was posted or before 5:00 p.m., August 9, 2024 on the outside bulletin board at City Hall, a place convenient and readily accessible to the public at all times.



MINUTES
City Council Meeting
Tuesday, July 23, 2024 @ 5:45 PM
1371 WEST FM 550 - McLendon-Chisholm, Texas 75032

The City Council of the City of McLendon-Chisholm convened in Regular Session on Tuesday July 23, 2024 at City Hall, 1371 West FM 550, McLendon-Chisholm, Texas, with the following members:

ATTENDING:	Bryan McNeal	Mayor
	Daniel Tucker	Mayor Pro Tem
	Paul Day	Council Member
	Floyd McLendon, Jr.	Council Member
	Jerry Brewer	Council Member
ABSENT:	Michael Easter	Council Member
Staff Present	Jeff White	Management Analyst
	Michael Halla	City Attorney
	Asa Woodberry	City Planner
	Angela Jennings	City Secretary

1 CALL TO ORDER

2 EXECUTIVE SESSION

The City Council for the City of McLendon-Chisholm, Texas, reserves the right to convene into executive session at any time during the course of this meeting to discuss any of the matters listed, as authorized by Texas Government Code, Chapter 551, including but not limited to §551.961- Consultation with Attorney; §551.072 - Real Property; §551.073 - Prospective Gifts; §551.074 - Personnel Matters; §551.076 - Security Devices; §551.086 - Utility Competitive Matters; and §551.087 - Economic Development Negotiation The City Council of McLendon-Chisholm will recess into executive session to consult with the Attorney as authorized by §551.071 of the Texas Government Code.

2.1. The City of McLendon Chisholm City Council will recess into executive session as authorized by §551.071(2) of the Texas Government Code, to

consult with the Attorney to wit: condition of streets and roads owned by the Glen Acres sub division generally located on the west side of 205 between Pullen Road and FM 550, in the City of McLendon-Chisholm.

Mayor adjourns executive session and calls recess until 6:30

3 RECONVENE INTO OPEN SESSION (6:30 PM)

Reconvenes meeting at 6:30 and explains new procedures for running the City Council Meeting.

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

Council Member McLendon is asked to lead the council in the Invocation.

Mayor Pro Tem is asked to lead council in the US Pledge and Texas Pledge

5 ACTION AS A RESULT OF EXECUTIVE SESSION

6 RULES OF DECORUM

7 CITIZEN COMMENTS

3 minutes per speaker

Mark Kipphut, 31 Fireside Dr, McLendon-Chisholm, TX

Complimented the Mayor on his presentation at the commissioner's court and thanked the council for their involvement on the dam issue. He feels that without, they would not have been on their radar.

8 CONSENT AGENDA

8.1. Consider approval of minutes from City Council Meeting on July 9, 2024 (City Administrator)

8.2. Monthly Reports from Fire Rescue, Code compliance, and Outside Contractors (City Administrator)

8.3. Consider approval of a Resolution of the City Council of the City of McLendon Chisholm, Texas providing an additional authorized signatory to the city's Financial Accounts with Alliance Bank, Texpool, Logic and Wilmington Trust, and providing an effective date.

8.4. Set Public Hearings - FY 25 Budget for August 27th at 6:30 PM

8.5 Set Public Hearing - FY 25 Tax Rate for August 27th at 6:30 P.M

Council Member McLendon ask that Minutes from last meeting be pulled from consent agenda. Mayor asks for a motion to approve all other items on the consent agenda.

Motion to approve all other items on the consent agenda

Motion by: Mayor Pro Tem,

Seconded by: Council Member Day

Approved: Unanimously

After a short discussion on the issue with the minutes, it is decided that they can be approved subject to changes

Motion to pass the minutes subject to changes

Made by: Council Member Day

Seconded by: Mayor Pro Tem Tucker

Approved: Unanimously

9 ITEMS FOR CONSIDERATION AND ACTION

9.1. Public Hearing to receive public comment regarding an Amendment to Article 14A (The Zoning Ordinance) of the City of McLendon-Chisholm's Code of Ordinances, creating an SF 1.0 (Single Family One-Acre) Zoning District. (City Administrator)

Mayor McNeal asks if there is anyone with comments on the public hearing. Mark Kipphut speaks on the SF 1.0 Amendment to Article 14A Zoning Ordinance and why it is needed. There are no other comments at the Public Hearing. Mayor McNeal closes the hearing.

9.2 Discuss and consider an amendment to the City of McLendon-Chisholm Code of Ordinances, Chapter 14A, Zoning Ordinance, Section 1-4 "Zoning districts established" by creating a Single Family (SF-1) Residential District (City Administrator)

Mayor calls for a motion.

Motion made to approve the amendment to the City of McLendon-Chisholm Code of Ordinances, Chapter 14A, Zoning Ordinance, Section 1-4 Zoning districts established by creating a Single Family (SF-1) Residential District.

Made by: Mayor Pro Tem Tucker

Seconded by: Council Member Brewer

Asa Woodberry, City Planner, explains the reason behind the SF-1 amendment and why he feels it is needed for future growth.

Mayor Pro Tem Tucker, says he has been persuaded by Mark Kipphut's view,

Council Member Day is concerned about the impact this will have on the animals , the landscape of the community. Council Member Brewer believes this is a good idea. After a brief discussion, Mayor calls for a vote.

Approved: 3-2

Ayes (Council Members Brewer, Tucker and Mayor McNeal is Tie breaker)

Nayes (Council Members Day and McLendon)

- 9.3.** Consideration and Action on the request of Jared Riggerback, McLendon Chisholm Commercial Holdings, Inc. for approval of a preliminary plat that provides for the development of one commercial lot which, at buildout, shall be an O'Reilly's Auto Parts store. (City Administrator)

Motion to approve the request of Jared Riggerback, McLendon-Chisholm Commercial Holdings, Inc. for approval of a preliminary plat that provides for the development of one commercial lot which, at buildout, shall be an O'Reilly's Auto Parts store.

Made by: Council Member Brewer

Seconded by: Mayor Pro Tem Tucker

Mayor calls for discussion:

Council Member Brewer believes it is a good thing because it is commercial property, and we receive sales tax income. This type of project is what we need to be encouraging. Council Member Day thanks ASA for making the larger plats available. Discusses drainage concerns but acknowledges this is just a preliminary plat. Mayor Pro Tem brings up the water issues, and states RCH should have to be there to justify the will serve letter. Mayor asks when Oreilly's is going to break ground. Rep says they are working to open as close to the first of the year as possible.

Approved: 3-1

Ayes (Council Members Day, McLendon and Brewer)

Nayes (Mayor Pro Tem Tucker)

- 9.4** Consideration and action to approve an upgrade and maintenance of the city council chamber's audio video system. (Mayor McNeal)

Item is pulled and will be put on next City Council Meeting Agenda

- 9.5** Staff Presentation on revenue projections for the Fiscal Year 2025 City of McLendon-Chisholm Budget (City Administrator)

NO ACTION

Council Member Day asks if we are considering any grants in the budget. Mr. White explains that we are looking into hiring a grant writer as requested by the council and at the time we receive a grant, we will go in and do a budget amendment at that point.

9.6 Discuss and consider nominations and appointments to the McLendon-Chisholm Planning and Zoning Commission (Mayor McNeal)

Mayor goes through the P & Z appointments, and states these are the P & Z recommendations. Council Member Tucker states he has been to several of the meetings and is good with the recommendations. Council Member Day questions why we are just turning over who we have and not looking at the other people who have applied as well. The mayor states that the P & Z meetings seem to go very smoothly. He asks Mr. Kipphut to address those questions being asked.

Mr. Mark Kipphut, chairman of the P & Z committee, states that term limits are something that should be addressed in the new Charter. He also suggests that 1 term might be too short, because it sometimes takes a while to understand the complete process. Mr. Kipphut points out that all the members up for reappointment are 1 term members. He also gives a short explanation of how the committee works, how the alternates move up and a history of how the P & Z in the past missed meeting the quorum because of members not showing up.

Motion made to retain the current members Chris Freeze, Gyle Dale and alternate Thomas Hritz to the P & Z committee.

Made by: Mayor Pro Tem Tucker

Seconded by: Jerry Brewer

Approved: Unanimous

9.7 Discuss and consider nominations and appointments to the McLendon-Chisholm Board of Adjustment. (Mayor McNeal)

Mayor again introduces the applications for the BOA committee and Mayor states the Chairman suggest that current members are retained. Council Member Day asks the same questions of BOA Chairman Bev Stebbins about alternates etc. Committee Chairman Stebbins explains BOA works the same as the P & Z concerning alternates moving up to regular committee members.

Motion to retain Bev Stibbens and Melody Osorio as regular members and Trudy Woessner as Alternate to the Board of Adjustment Committee.

Made by: Council Member Day

Seconded by: Council Member Brewer

Approved: Unanimous

9.8. Discuss and consider action directing staff to evaluate Emergicon, an EMS and Fire Services Billing and Collection Service for the purposes of negotiating a possible future contract regarding billing/collection for Fire Services provided by McLendon-Chisholm Fire department. (Mayor Pro Tem Dan Tucker)

Motion made to act in directing staff to evaluate Emergicon, an EMS and Fire Services Billing and Collection Service for the purposes of negotiating a possible contract regarding billing and collection for Fire Services provided by McLendon-Chisholm Fire department.

Made by: Council Member Dan Tucker
Seconded by: Council Member Brewer

Mayor Pro Tem Tucker explains what Emergicon is and what they do, stating that this company reaches out and claims some of the expenses and cost of the emergency calls to the insurance companies for allowed reimbursements. Jeff White reiterates the advantages of using these services. Mayor ask that Emergicon have a rep here along with Chief Simmons to answer questions about the service.

NO MOTION

10 COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS

The City Council will have an opportunity to address items of community interest including: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the City of McLendon-Chisholm; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the City of McLendon-Chisholm that was attended or is scheduled to be attended by a member of the City Council or an official or employee of the City of McLendon - Chisholm; and announcements involving an imminent threat to the public health and safety of people in the City of McLendon-Chisholm that has arisen after posting the agenda.

11 ADJOURN

Mayor McNeal Adjourns the meeting at 7:42pm

CAO

Mayor

AMENDED AND RESTATED SERVICES CONTRACT

IN CONSIDERATION of the mutual covenants and promises contained herein, **Inframark, LLC** (the “Contractor”), formerly known as Severn Trent Environmental Services, Inc., agrees to perform the services set forth in this Contract for **The City of McLendon-Chisholm** (the “City”).

WHEREAS, Severn Trent Environmental Services, Inc. and the City entered into a Services Contract on August 1, 2014 and as amended by that certain First Amendment dated July 26, 2016 (collectively, the “Original Contract”); and

WHEREAS, Severn Trent Environmental Services, Inc. restructured and changed its name to Inframark, LLC, which assumed all rights and obligations of Severn Trent Environmental Services, Inc.; and

WHEREAS, the parties desire to execute this Amended and Restated Services Contract (the “Contract”) to revise certain terms under the following terms and conditions:

CONTRACT EFFECTIVE DATE: June 11, 2024

LOCATION OF WORK: Within the City of McLendon-Chisholm, Texas.

CITY’S MAILING ADDRESS: 1248 S. Hwy. 205, McLendon-Chisholm, Texas 75032 Attn: Bryan McNeal, Mayor.

TERM: This Contract shall be in force for one year from the Contract Effective Date and shall continue thereafter from year-to-year subject, however, to termination by either the City or Contractor for any reason at any time by giving thirty (30) days advance written notice to the other.

DESCRIPTION OF CONTRACTOR’S SERVICES: The Contractor shall provide the services as set forth in Attachment “A” (“Services”).

CONTRACT PRICE:

The City agrees to pay the Contractor the monthly fee set forth in Attachment “B”, a copy of which is attached hereto. The City agrees to pay the Contractor for labor, equipment, and materials at the rates set forth in Contractor’s rate schedule, a copy of which is attached hereto and incorporated herein for all purposes as Attachment “B”. Payments are due in accordance with the General Terms and Conditions of this Contract.

THE GENERAL TERMS AND CONDITIONS attached to this Contract are agreed to be a part of this Contract.

AGREED BY:

THE CITY OF MCLENDON-CHISHOLM

By: Bryan McNeal
Title: Mayor
Date: _____

OFFERED BY:

INFRAMARK, LLC


By: Todd Burrer
Title: President of Municipal Utility Districts
Date: 6-7-2024

GENERAL TERMS AND CONDITIONS OF AGREEMENT

Definitions. As used herein, the following terms shall have the following meanings:

-- "*Abnormal or Biologically Toxic Materials*" may include, but are not limited to, concentrations of heavy metals, phenols, cyanides, pesticides, herbicides, priority pollutants as listed by USEPA, or any substance that violates the local or USEPA standards for finished water after the routine processing of the raw water.

-- "*Applicable Law*" is defined as those laws, rules, regulations, codes, administrative, judicial and settlement orders, directives, guidelines, judgments, rulings, interpretations, permit conditions and restrictions or similar requirements or actions of any federal, state, local government, agency or executive or administrative body of any of the foregoing in each case that pertain to the (a) parties' respective responsibilities under this Contract, (b) operation or maintenance of the Facility, (c) health and welfare of individuals working at or visiting the Facility, and (d) the collection, delivery, pretreatment, and treatment of the City's wastewater, as applicable.

-- "*Change of Law*" the occurrence of any of the events listed in (i) through (iv) below, which results or can reasonably be expected to result in a change in the scope of Contractor's liabilities or obligations under this Contract:

(i) there is passed or promulgated any federal, state, or other local law, statute, ordinance, rule, or regulation different from those existing on the Contract Date; or

(ii) there is passed or promulgated any amendment to, or change in, any federal, state, or other local law, statute, ordinance, rule, or regulation (including any applicable sales tax regulation) following the Contract Date; or

(iii) there comes into existence an order or judgment of any federal, state, or local court, administrative agency or other governmental body following the Contract Date containing interpretations of law relating to the provision of the Services by the Contractor that is inconsistent with generally accepted interpretations in effect on the Contract Date; or

(iv) (a) the imposition of any condition different from those existing on the Contract Date on the issuance, maintenance or renewal of any official permit, license or necessary approval related to the provision of the Services by the Contractor, or (b) there shall be a suspension, termination, interruption, revocation, denial or failure of renewal of any official permit, license or necessary approval related to the provision of the Services by the Contractor, including without limitation such of the foregoing as are issued or approved by the USEPA, the Occupational Safety and Health Administration or any local Environmental and/or Building Department;

-- "*Contract*" means these terms and conditions, any additional terms and conditions attached hereto and/or expressly incorporated herein directly or by reference including, without limitation, the Description of Contractor's Services attached hereto as Attachment "A", and the Rate Schedule attached hereto as Attachment "B";

-- "*Contract Price*" means the compensation to be paid by the City to the Contractor in accordance with the terms of this Contract;

-- "*Contractor*" means Inframark, LLC and its permissible successors and/or assigns. Any reference to actions taken or not taken by the Contractor shall include those actions taken or not taken on Contractor's behalf.

-- "*Facility*" means the City's lift station(s) and other related appurtenances.

-- "*Force Majeure*" means any act, event or condition to the extent that it adversely affects the cost or the ability of a party to perform its obligations in accordance with the terms of this Contract if such act, event or condition, in light of any circumstances that should have been known or reasonably believed to have existed at the time, is beyond the reasonable control and is not a result of the willful or negligent act, error or omission or failure to exercise reasonable diligence on the part of the party so affected. Force Majeure includes but is not limited to: (a) acts of God; (b) flood, fire, earthquake, hurricane or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Contract; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances, other than those involving the affected parties employees; (i) shortage of adequate power or transportation facilities.

-- "*Non-Processible Water*" is defined as influent raw water (i) which contains Abnormal or Biologically Toxic Materials; or (ii) which is otherwise detrimental to the operation and performance of the Facility; or (iii) which exceeds the design capabilities of the Facility as defined by the operations and maintenance manual for the Facility or as provided in submissions made to regulatory agencies in connection with the construction and/or the permitting of the Facility.

-- "*City*" means the party executing this Contract and described as the City on the front page of this Contract;

-- "*Process Residue*" means grit, screenings, residuals, biosolids, and sludge generated by or through the operation of the Facility.

-- "*Services*" means the services to be provided by the Contractor to the City as identified in Attachment "A" to this Contract. Other terms not expressly defined above have the meaning so given to them in this Contract.

Construction of Contract. Whenever the context requires, the gender of all words used in this Contract includes the masculine, feminine, and neuter. All references to Articles and Sections refer to articles and sections of this Contract, and all references to Attachments are to Attachments attached to this for all purposes. Captions, headings, cover pages, tables of

contents and footnote instructions contained in this Contract are inserted only to facilitate reference and for convenience and in no way define, limit, or describe the scope, intent or meaning of any provisions of this Contract. Words and abbreviations that have well known technical or trade meanings are used in this Contract in accordance with such recognized meanings.

Entire Contract. The terms and conditions set out herein are the entire terms and conditions of this Contract and any prior or contemporaneous understandings or agreements, oral or written, are merged herein. There are no representations or warranties, agreements, or covenants other than those expressly set forth in this Contract. This Contract may be amended or modified and/or any right or obligation arising under this Contract may be waived from time to time only by a written instrument executed by the City and the Contractor. The failure of either party at any time to enforce any of the provisions of this Contract shall not constitute a waiver of such provision.

Quality of Work and Materials. Subject to the terms of this Contract, the Services to be provided hereunder shall be performed by qualified personnel in accordance with standards generally acceptable in Contractor's industry. Contractor shall use the effort, skill, diligence, and quality control/quality assurance measures expected of a qualified firm performing services of a similar nature to the Services to be performed by the Contractor pursuant to this Contract. Materials furnished by the Contractor, if any, shall be new and in compliance with any technical standards or specifications incorporated into this Contract. The warranties and/or performance guarantees for any materials provided under this Contract shall be limited to those as provided by the manufacturer or supplier. The City's remedies for the manufacturer or supplier's breach of its warranty obligations or performance guarantees shall be limited to those provided by the manufacturer or supplier and Contractor shall have no liability for breach of said warranties and/or performance guarantees; however, Contractor shall reasonably assist the City in enforcing the warranties and guarantees, if any, for the materials provided hereunder. The City shall bring all claims for a breach of the warranties and/or performance guarantees provided by manufacturers, suppliers, and subcontractors who provide the materials hereunder directly against said manufacturers, suppliers, and subcontractors and shall not bring such claims against Contractor.

Compliance with Law. The parties shall comply with Applicable Laws in performing their respective obligations hereunder. Contractor shall comply with Texas Government Code Title 10, Subtitle F, Chapter 2271, PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL

Contract Schedule. The Contractor's completion of the Services within a reasonable time shall constitute the Contractor's full compliance with any specific schedule requirement, if any, contained in this Contract. The date of completion provided in this Contract, if any, is approximate and is based upon prompt receipt by Contractor of all necessary information and data required to be supplied by the City, and is subject to weather, groundwater conditions, unforeseen site conditions and all Force Majeure events.

Costs and Expenses. The City shall arrange for and pay: i) all costs related to delivery to and consumption of utilities to the Facility, including electricity, water, gas and telephone usage at the Facility; ii) all property, value-related, franchise, sales, use, excise, gross receipts, transaction privilege or other taxes associated with the Services and the ownership, operation and maintenance of the Facility, other than taxes imposed on Contractor's net income or payroll; iii) expenses incurred from the treatment of Non-Processible Water, including without limitation, any penalties and fines that may be assessed as a result; iv) expenses resulting from influent or pollutant loads exceeding the design capabilities of the Facility; v) expenses resulting from hydraulic or organic loads exceeding the design capabilities of the Facility; vi) all costs attributable to the transportation and disposal of Process Residue; vii) all costs for grass cutting and other landscaping; and viii) all other costs not specifically assumed by Contractor in this Contract.

Additional Work. (a) All additional labor, materials, tools, bonds, insurance, equipment, licenses, taxes, transportation, surveys, engineering, other professional services not set forth in Attachment "A" and any additional item provided by or on behalf of the Contractor as a result of Force Majeure conditions shall constitute additional work extending beyond the scope of the Services to be provided by Contractor hereunder, provided, however, that absent an emergency, no such additional work shall be performed without the express written consent of the City. Contractor shall be compensated for all such additional work commensurate with the appropriate unit prices and/or hourly rates indicated in this contract and if no such prices or rates are provided, Contractor shall be compensated for the fair and equitable value of such additional work in an amount reasonably agreeable to the parties; (b) The City may add, delete, modify, alter, or accelerate the Services to be performed hereunder, including without limitation, order changes to the Services, or require the Contractor to perform additional services but only through a duly executed change or field order. All change and field orders shall be in writing and require the signature and acceptance by the Contractor prior to becoming effective. Unless agreed to otherwise by the Contractor, all such change and field orders shall reflect the parties' agreement regarding price and proposed completion date.

The General Terms and Conditions shall apply to such field or change order, except to the extent specifically agreed by the parties in such field or change order.

Employee Safety. Contractor shall be responsible for the safety, efficiency and adequacy of its employees and any vehicles and/or machinery, equipment or materials furnished or utilized by the Contractor during the performance of Services. Contractor, however, shall not assume any obligation or incur any liability for personal injury or property damage caused by (i) unsafe site conditions-not created by the Contractor or by any of its agents, employees, and subcontractors, (ii) work being performed by other parties not related to the Contractor, (iii) the negligence or misconduct of the City, and/or (iv) the negligence or misconduct of any third party not related to the Contractor.

City's Obligations. The City shall be responsible for obtaining, maintaining, and renewing, in the City's name and expense, all state, federal and local permits and licenses required for the ownership and operation of the Facility and all Facility equipment. The City shall comply with Applicable Law relating to the management, ownership, operation, maintenance, repair, and replacement of the Facility (to the extent that the responsibility of complying with those laws is not specifically assumed by the Contractor under this Contract); the Contractor shall not be responsible for the City's failure to comply with any provision of Applicable Law that is not otherwise specifically assumed by Contractor hereunder.

Risk of Loss. Any losses or other liabilities resulting from theft, damage, or unauthorized use of the City's property, by any party other than Contractor, shall be borne by the City.

Force Majeure. Any event of Force Majeure that directly or indirectly causes a party to be unable to perform its obligations under this Contract shall not be deemed a breach of this Contract. The occurrence of such event shall suspend the obligations of the affected party for only so long as the impact of such event continues. The obligation to pay amounts due and owing shall not be suspended by such event. The party affected will use commercially reasonable efforts to mitigate the effect of the event.

Ownership of Documents and Inventions. (a) All tracing, specifications, computations, notes, and other original documents as instruments of service are and shall remain the property of Contractor unless otherwise provided by law; *provided however* that Facility specific records and data, such as Facility operation reports and permit compliance reports, shall at all times remain the property of the City. Contractor shall not release the City's records data without prior authorization, unless otherwise required by Applicable Law; (b) All inventions, discoveries, and copyright in work of authorship, including those in formative stages, made by the Contractor (either alone or jointly with the City) shall from the time of conception or, in the case of works of authorship, from the time of creation be the property of Contractor.

Restriction on Use of Reports. Except for reports required by state, federal, or local regulatory bodies or agencies, any reports rendered under this Contract by the Contractor are prepared for the exclusive use of the City. The use of any such reports and data for purposes other than those intended within the scope of the Services is strictly prohibited and is at the City's sole risk and responsibility.

Approval of Work. Services performed by Contractor shall be deemed approved and accepted by the City within a reasonable period of time (but in no event longer than thirty (30) days) after the City has had the opportunity to review and/or inspect such services unless the City objects within such period of time by written notice specifically stating the details in which the City believes such services are incomplete or defective. Under all circumstances, final payment of the Contract Price shall be deemed as conclusive evidence that the City has accepted all Services provided.

Payment Terms. . City shall make all payments are within 30 days from the date Contractor issues an invoice. Any payment delayed beyond thirty (30) days from the specified due date, unless occasioned by fault of the Contractor, shall be subject to one and one-half (1.5) percent per month interest on the unpaid balance. Any disputes regarding invoices shall be raised, in writing setting forth sufficient detail regarding the nature of the dispute, within ten (10) of the date of said invoice.

Taxes. The City is a governmental entity that does not pay sales tax; however, if the City does not provide Contractor with the appropriate Sales and Use Tax Exemption Certificate, the City shall pay all sales and use taxes associated with the Services. The City shall pay all property, franchise, and other taxes associated with the Services other than taxes imposed on Contractor's net income or Contractor's payroll taxes. The prices hereunder do not include sales, use, excise, ad valorem, property, or other taxes, other than taxes based on income, now or hereafter imposed directly or indirectly, by any governmental authority or agency with respect to this Contract and the Services provided and materials furnished hereunder. The City shall pay directly or reimburse Contractor for any such taxes that Contractor may be required to pay, including without limitation, sales and/or use taxes that Contractor may be required to pay, under Applicable Law, in connection with

Contractor's purchase or use, in performing the Services hereunder, of equipment, supplies, material and/or subcontracted services.

Default and Termination. Either party may terminate this Contract by immediate written notice if the other has failed to comply with a material term, provided that the non-defaulting party has first given the defaulting party written notice to cure their default within thirty (30) days ("Cure Period") and the defaulting party has not done so. If a default cannot be cured within the Cure Period days, the parties may agree an extension as long as the defaulting party provides evidence within the Cure Period that it has commenced a cure and is pursuing it diligently. In the event of any termination, Contractor shall be paid for all services rendered and materials supplied (including materials specifically manufactured/made for the City that have yet to be supplied), if any, through the date of termination. For purposes of this section, the failure of the City to pay Contractor in accordance with the payment terms of this Contract shall be considered such a substantial failure. In the event of a substantial failure on the part of the City, Contractor, in addition to the right to terminate set forth in this paragraph, may also elect to suspend work until the default in question has been cured. No delay or omission on the part of either party in exercising any right or remedy hereunder shall constitute a waiver of any such right or remedy on any future occasion. The effectiveness of a termination by the City will be conditioned upon receipt by Contractor of such payment for all services rendered and materials supplied (including materials specifically manufactured/made for the City that have yet to be supplied), if any, through the date of termination. If the City incurs costs for damages due to a default of the Contractor that results in termination of this Contract, the City may deduct such costs or damages from the final payment due to Contractor. Such deduction will not exceed the final payment owed to Contractor and will constitute a full and final settlement between the City and Contractor for any and all claims against Contractor by the City and a release by the City of any and all further claims against Contractor.

Indemnification. *EACH PARTY (THE "INDEMNIFYING PARTY") SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE OTHER PARTY AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS (EACH IS REFERRED TO HEREIN AS AN "INDEMNIFIED PARTY") AGAINST ANY AND ALL LIABILITY FOR DAMAGES, REASONABLE COSTS, LOSSES, AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, RESULTING FROM ANY CLAIM ASSERTED BY A THIRD PARTY AGAINST THE INDEMNIFIED PARTY FOR WRONGFUL DEATH, BODILY INJURY AND/OR PROPERTY DAMAGE, BUT ONLY TO THE EXTENT CAUSED BY THE WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF THE INDEMNIFYING PARTY.*

Contractor's Liability. The Contractor's maximum liability for any and all liabilities, damages, fines, penalties, costs, losses, expenses, and claims, including claims by the City for indemnification (collectively referred to as "Claims") under this Contract shall not exceed an amount equal to the compensation paid to the Contractor by the City in the year in which the Claim arises.

Waiver of Damages. Notwithstanding any provision to the contrary contained in this Contract, in no event shall either party be liable, either directly or indirectly, for any special, punitive, indirect and/or consequential damages, including damages attributable to loss of use, loss of income or loss of profit even if such party has been advised of the possibility of such damages.

Regulatory Fines. Contractor is only liable for environmental regulatory fines and penalties imposed by environmental regulatory bodies that result after the Contract Effective Date and only to the extent said violations are directly attributable to Contractor's breach of its contractual obligations hereunder. Prior to settlement or payment of any such fines or penalties, Contractor reserves the right to contest any actions, suits, or proceedings for violations through administrative procedures or otherwise. If the Facility loading exceed its design parameters or if influent contains: i) abnormal, toxic, or other substances which cannot be removed or treated by the existing Facility; or ii) discharges which violate applicable ordinances, Contractor will use its best efforts to maximize performance of the Facility but shall not be responsible for associated effluent characteristics or damages, fines or penalties which result.

City's Instructions. Under no circumstances shall Contractor be responsible for any damages, losses, settlement, payment deficiencies, liabilities, costs, and expenses arising directly or indirectly because of the execution or implementation of instruction or directions provided by the City's mayor or the mayor's designee; provided however, the City shall notify Contractor in writing of any such designees.

Cyber Security. Contractor shall not be liable for any liabilities, losses, damages, expenses, fines, or penalties incurred by the City or any third party as a result of a data security breach or other cyber security breach to the Facility or the City's computer systems, operating systems, and all other technological or information systems related to the Facility and Services provided hereunder, except to the extent such liability, loss, damage, expense, fine, or penalty is the direct result of Contractor's willful or negligent acts or omissions.

Insurance. Contractor shall procure and maintain through the period of this Contract, at Contractor's own cost and expense (a) general liability insurance in the amount of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate; and (b) worker's compensation insurance in accordance with all statutory requirements.

Changes in Law. The parties acknowledge that a change in federal, state, or other local law, statute, ordinance, rule or regulation or amendment or an order or judgment of any federal, state, or local court, administrative agency or other governmental body containing interpretations thereto that is different from those existing on the date this Contract is executed by ("Change in Law") may affect compliance with Contractor's obligations hereunder or impose more stringent requirements relating to equipment or processes than those established at the time of executing this Contract. In the event that a Change in Law occurs, Contractor shall not be responsible for compliance therewith or for any fines, penalties, or other damage of whatever kind and City shall indemnify, defend, and hold Inframark harmless from same.

Disclosure of Information and Cooperation of the Parties. (a) Each party agrees that it has disclosed, and it will continue to disclose, any and all information it now has, or may have in the future, to the extent that such information is relevant to the other party in performing its duties and obligations hereunder; (b) Each party hereto agrees that it will cooperate in good faith with the other and its agents, employees, representatives, officers, contractors and subcontractors to facilitate the performance of the mutual obligations set forth in this Contract.

No Third Party Beneficiaries. This Contract is entered into solely between and may be enforced only by the Contractor and the City; and this Contract shall not be deemed to create any rights in third parties, including clients, suppliers, or customers of a party, or to create any obligations of a party to any such third parties.

Notices. Wherever under this Contract one party is required or permitted to give notice to the other party, such notice shall be in writing and shall be delivered personally, sent by facsimile transmission, sent by nationally recognized express courier, or sent by certified, registered, first class mail, postage prepaid, but not by electronic mail. Notices required to be given to the parties by each other will be addressed to:

Contractor:
Inframark, LLC
2002 West Grand Parkway North, Suite 100
Katy, Texas 77449
Attn: Todd Burrer

With copy to:
Inframark, LLC
2002 West Grand Parkway North, Suite 100
Katy, Texas 77449
Attn: Legal Department

City:
The City of McLendon-Chisholm
1248 S. Hwy. 205
McLendon-Chisholm, Texas 75032
Attn: Bryan McNeal, Mayor

Any such notice shall be deemed given when actually received when delivered either personally, by facsimile transmission or by express courier, or if mailed, on the fifth day after its mailing, postage prepaid to the recipient party.

Governing Law and Venue. This Contract and performance under it shall be governed by and construed in accordance with the laws of Texas.

Dispute Resolution. In the event of any disputes, the parties shall first attempt to resolve the situation by good faith discussions in a timely manner. If the dispute cannot be resolved within thirty (30) days, the parties shall mediate their dispute before a mediator acceptable to both parties, if they cannot agree, they shall ask the Director of the Federal Mediation and Conciliation Service to nominate a mediator. The parties shall bear their own costs of the mediation, but the parties shall share equally the costs of the mediator and the mediation facilities. If the parties are unable to resolve any disputes as set forth above, either party may request that such dispute be submitted for binding arbitration, which shall be governed by the rules of the American Arbitration Association or such other rules as the parties may agree. The parties agree that any judgment

issued as a result of arbitration may be entered in the court having jurisdiction thereof. The parties agree that arbitration shall be the exclusive means to settle any dispute, controversy or claim arising out of this Contract.

Independent Contractor. The relationship of Contractor to the City is that of independent contractor for all purposes under this Contract. This Contract is not intended to create, and shall not be construed as creating, between Contractor and the City, the relationship of principal and agent, joint ventures, co-partners or any other similar relationship, the existence of which is hereby expressly denied.

Amendments. The parties may only modify this Contract by a written amendment signed by both parties.

Non-Solicitation. Neither party may actively solicit, for hire, the employees of the other party during the term of this Contract or for a period of one (1) year following the termination or expiration of this Contract.

Severability. If any provision of this Contract is found to be illegal or unenforceable, such provision will be severed from this Contract and the other provisions will remain effective and enforceable to the greatest extent permitted by law.

Successors and Assigns. Neither the City or Contractor shall assign, sublet, or transfer any rights under or interest in this Contract without the prior written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated by law, or the effect of this limitation may be restricted by law. Notwithstanding the foregoing, Contractor may assign its rights and obligations under this Contract to an affiliate upon the written notice to the City.

ATTACHMENT “A”
DESCRIPTION OF SERVICES

The City shall pay the Contractor Fees set forth in Attachment “B” to perform the following services:

I. SERVICES

A. **ADMINISTRATIVE SERVICES:** Contractor shall provide the following services to the City at no additional cost:

1. Organization. Contractor shall administer the work, activities, and operations of the System in accordance with the items in this Contract.
2. Personnel. Contractor shall provide competent, trained personnel. System supervisors and/or operators shall be licensed or certified by the appropriate state governmental authority. Accounting, billing, and field personnel shall be trained to be professional and courteous in dealing directly with the City’s customers.
3. Training. Contractor shall maintain a continuing education program for all employees. Specifically, all System supervisors and operators shall attend a state certified or approved wastewater training course at least once each year or otherwise receive a minimum of 20 hours of training each year, to the greatest extent practicable.
4. Administration. Contractor shall:
 - a. Enter and maintain all of the City’s Customer and Rate Ordinance information necessary to provide monthly billings to the City’s customers.
 - b. Inventory and maintain a listing of all of the System equipment including manufacturer’s model and serial numbers, motor frame numbers and other such data as required to provide immediate information for the Scheduled Maintenance Program and repair or replacement of the System equipment.
 - c. Assist the City in preparing a Rate Ordinance and, upon request, analyze the existing Rate Ordinance and budget for adequacy and consistency.
 - d. Assist in the preparation of an annual operating budget for the City.
5. Maintenance Scheduling. Contractor shall provide a Scheduled Maintenance Program for the System equipment, including collection and distribution systems. Developed by Contractor, this program utilizes equipment manufacturer’s recommendations and the System equipment inventory to generate maintenance schedules. The resulting monthly schedule lists the specific System equipment to be serviced, the detailed service procedure, specified oil, or grease to be used, and a history of service, maintenance, and replacements. The City consents to the administration of the mutually agreed upon maintenance schedule by Contractor.
6. 24 Hour Service. Contractor shall maintain 24-hour telephone and dispatch service with qualified personnel to respond to the System’s customer problems and equipment malfunctions.

7. Automatic Telephone Alarm. Contractor shall monitor computer or automatic dialed telephone alarm systems at any of the System facilities which are installed and programmed to call the Contractor 24-hour telephone dispatch service.
 8. Employee Identification. Contractor operating and maintenance employees shall be readily identifiable to the City's customers by distinctive clothing. Service vehicles shall have the Contractor logo prominently displayed.
 9. Coordination with Consultants. Contractor shall coordinate with the City's other consultants, such as attorneys, engineers, auditors, bookkeepers, tax assessors, and financial advisors as necessary to maintain efficient operation of the System.
 10. Inquiries and Correspondence. Contractor shall respond to routine inquiries or correspondence from the City's representatives, customers or consultants in a prompt, professional manner.
 11. City Meetings. Contractor's Account Manager will attend regularly scheduled meetings which have an agenda item relating to the System's operations, including but not limited to usage, and initial registration. The Contractor's representative will have direct knowledge of the System's ongoing operations or agenda items as appropriate.
 12. Community Relations. Upon adequate notice, Contractor shall provide speakers qualified to make presentations to citizen groups, civic associations, and schools within the City. Subjects shall include utility regulations, wastewater facilities operations and the City's budgeting and operations functions.
 13. Customer Relations. Contractor shall render reasonable assistance in the promotion of good relations with the City's customers.
 14. City Funds. All funds collected by Contractor on behalf of the City shall be deposited in the City's Operating Fund or Account every other day or as may otherwise be directed by the City. All such funds are public funds and may be pledged to the payment of debts of the City; therefore, Contractor agrees that all such funds shall be deposited as provided above without setoff, counterclaim, abatement, suspension, or diminution.
- B. BASIC SERVICES: Contractor shall provide the following Basic Services for the Base Monthly Operations Fees as set forth in the Schedule of Standard Rates, a copy of which is included hereto as Attachment "B":
1. System Operations. Contractor shall provide personnel, vehicles, and hand tools necessary for the operation and maintenance of the System.
 2. System Inspection. Contractor shall monitor the System facilities daily, including weekends and holidays as required by state regulations. Contractor employees, whenever they are within the City boundaries, shall monitor the System for defects, damage, and be alert for missing System equipment.

3. Billing, Collection, and Related Services:
 - a. Contractor shall bill the customers in accordance with the City's Ordinance and deposit the collections in the City's Operating Account.
 - b. The City authorizes Contractor to adjust bills for clerical errors and other similar adjustments.
 - c. The City shall reimburse Contractor for material and postage costs associated with billing and collection, and the City shall reimburse Contractor for the costs actually paid by Contractor to the third-party provider of the Billing Software Services.
4. Daily Maintenance. Contractor shall provide the personnel and hand tools for maintenance tasks which do not utilize specialized tools, safety equipment or technical skills. This includes cleaning or changing blower filters, draining condensate in clarifier drives and air compressors, and exercising auxiliary engines.
5. Operating Log. Contractor shall maintain an operating log at the System wastewater treatment plants which may be inspected by the City at any time. The logs shall include the following:
 - a. Flow records.
 - b. Notations recording repairs or replacements performed.
 - c. Such other matters within the scope of Contractor's work which the City may reasonably request.
 - d. Any information required by regulatory entities.
6. Monthly Operations Report. Contractor shall render a monthly operations report, as requested by the City, which shall include the following information:
 - a. State and/or federal wastewater discharge reports.
 - b. Correspondence to regulatory authorities as appropriate.
 - c. Average daily wastewater flows.
 - d. Total number of wastewater service connections.
 - e. Records regarding equipment repairs and replacements.
 - f. Abnormal change in condition of the System equipment, needed repairs and recommendations as to the repair of such equipment.
 - g. Insurance claims filed on behalf of the City.
 - h. Regular billing and collection reports, including cash receipts, billings, and receivables.
 - i. Service customers' receivables, including 30, 60, and 90 day aged accounts.
 - j. Delinquent customer report, including information on termination of service and protests or appeals made by customers.
 - k. Damage to the System and the possible causes thereof. In instances where the damage may be attributable to a contractor, builder, utility company or other entity, Contractor shall (on behalf of the City) back charge the party responsible

for such damage, including administrative costs thereof, and include such information in the monthly report.

- l. Informational reports relating to compliance status of the System.
- m. Statistics relating to overall System operations, as appropriate.
- n. Summary of operations and maintenance costs of joint facilities shared with other districts, if applicable.
- o. Summary and details of monthly invoices to the City separated into specific budget categories.
- p. Operations and maintenance cost data to the City for use in budget comparisons.
- q. Information and reports as may be required for audit of the City's service accounts.

Details of the above reports will be available to provide a clear audit trail of the System wastewater transactions.

- 7. Regulatory Reports. Contractor shall prepare and submit routine monthly reports required by regulatory authorities and authorized by the City to receive such reports.

C. **INSTALLATION AND INSPECTION SERVICES:** Contractor shall provide the following Installation and Inspection Services for labor and equipment fees as set forth in the Schedule of Standard Rates, a copy of which is included hereto as Attachment "B":

- 1. General. All installation materials shall meet American Water Works Association standards and be in compliance with applicable City, county, and state codes. All installation and inspection fees shall be collected from the City's customers in advance, in accordance with the City's Rate Ordinance.
- 2. Sanitary Sewer Inspections. Contractor shall inspect each sanitary sewer connection to the System to assure compliance with the City's specifications and procedures, for each residential connection and paid in accordance with its standard time and materials rates for each commercial inspection.
- 3. Customer Service Inspections. Contractor shall perform residential plumbing inspections on behalf of the City as requested or as required by the City's Rate Ordinance.
- 4. Backflow Prevention Inspections. Contractor shall perform backflow prevention device inspections on behalf of the City as requested or as required by the City's Rate Ordinance.
- 5. Grease Trap Inspections. Contractor shall perform grease trap inspections on behalf of the City as requested or as required by the City's Rate Ordinance.
- 6. Other Inspections. Contractor shall perform other inspections as requested or authorized by the City. Such inspections include, but are not limited to, cross connections, or new facilities prior to acceptance by the City. Contractor may also participate in site inspections with contractors prior to the start of building activity to assist in verifying the condition of the System.

D. **MAINTENANCE, REPAIR AND REPLACEMENT SERVICES:** Contractor shall provide the following Maintenance, Repair and Replacement Services for labor and equipment fees as set forth in the Schedule of Standard Rates, a copy of which is included hereto as Attachment “B”:

1. **Maintenance.** Contractor shall provide personnel, tools, and equipment to perform maintenance on the System as authorized by the City. Maintenance shall include, but not be limited to, the following: manhole and sewer line infiltration/inflow surveys consisting of on-site visual inspection of facilities, smoke testing and video monitoring (TV inspection) as appropriate. Perform or participate in the rehabilitation of the sewer system to correct defects discovered by the infiltration/inflow survey.
 - a. Perform, or have performed, all sampling, testing and/or analyses as required by regulatory authorities or necessary for process control and shall be paid for by the City. A summary of test results shall be submitted to the City each month.
 - b. Other maintenance as necessary, which requires special skills and/or tools, performed in conformance with equipment manufacturer’s recommendations to maintain warranties and to extend the useful life of the equipment.
2. **Repair.** Contractor shall provide personnel and equipment to perform repairs on collection and distribution systems as authorized by the City including, but not limited to, manhole repairs, sewer line repair and cleaning, as needed.
3. **Replacement.** Contractor shall use a reasonable degree of care with respect to replacement of equipment or facilities but shall not be responsible to the City for any guarantees or warranties offered by others in connection with such equipment or facilities. Contractor agrees to make reasonable efforts to obtain for and assign to the City the normal guarantees or warranties associated with any replacement equipment.
4. **Maintenance, Repair and Replacement Fees.** In an effort to reduce costs, Contractor shall attempt to schedule and perform these services during normal working hours, excluding holidays and weekends. Non-emergency work shall not be billed on an overtime rate unless prior approval is obtained from the City.
5. **Expendable Items.** Contractor shall, at the City’s expense, in accordance with Attachment “B”, replace those items expended in the daily operation of the System. Those items include, but are not limited to, brooms, mops, dip nets, rakes, shovels, trash cans, hoses, nozzles, padlocks, and other such items used at the System facilities.
6. **Emergency Response.** Contractor shall maintain personnel and equipment for emergency response 24 hours per day, seven days per week and 365 days per year. Emergencies shall include, but not be limited to, blockage in the sewage collection system, wastewater plant malfunctions that could result in regulatory or permit excursions, any response requested by the City or its representative or response to insistent resident concerns when necessary to maintain good City relations.
7. **Materials and Supplies.** Contractor shall be paid for all materials and supplies used to provide services under this Contract, in accordance with Attachment “B”.

E. **OTHER SERVICES:** Contractor shall provide the following Other Services for labor and equipment fees as set forth in the Schedule of Standard Rates, a copy of which is included hereto as Attachment “B”:

1. Landscape Services. Contractor shall provide services to maintain the landscape appearance compatible with the neighborhood at the System facilities with routine trimming and lawn mowing as necessary. These services will be provided by a subcontractor retained by Contractor and will be charged to the City on an outside contractor basis.
2. Delinquency Notices. Contractor shall prepare and mail delinquency notices and collect past due accounts in accordance with the City's Rate Order and policy.
3. Returned Check/Payment Reversal Fee. The City will be charged for each returned check or alternate payment reversal i.e., credit card or e-check.
4. Service Account Transfers. Contractor shall transfer sewer and solid waste/recycling service from the current customer to the new customer, when requested by the City. Usage shall be prorated to each customer based on the number of days each customer received service during the billing period in which the transfer is requested.
5. Special Studies/Reports. Contractor shall conduct studies or prepare special reports as requested by the City.

F. SUBCONTRACT SERVICES

1. Contractor Subcontractors. Contractor may subcontract such services hereunder as may, in Contractor's opinion, be desirable. Such Contractor subcontractors shall be considered, for the purpose of this Contract, as employees of Contractor with Contractor retaining responsibility for such subcontractors' performance.
2. City Subcontractors. The City reserves the right to directly employ subcontractors for certain maintenance work within the System. Contractor shall receive no supervision and inspection fees and shall not be responsible in any way for services performed by subcontractors employed or paid directly by the City.

G. CAPITAL IMPROVEMENTS

Contractor may make recommendations for Capital Improvements, equipment, operations, or maintenance (collectively referred to as "Recommendations") to the City to perform the Services in compliance with the terms of this Contract and applicable law. In the event the City does not approve and make Recommendations by Contractor, Contractor will not be liable for any loss, damage or liability arising from or related to the City's rejection of or refusal to implement the Recommendations, including any loss, damage, or liability for (a) failure of the Facilities, (b) failure to comply with applicable law, (c) failure to meet the requirements of this Contract or (d) claims for indemnification. "Capital Improvements" means any modifications, additions or upgrades to the System made by or on behalf of the City or with its prior approval and funded by the City whose cost (as to any single event or function) exceeds \$5,000.00.

II. MISCELLANEOUS PROVISIONS

A. RESPONSIBILITIES

1. Contractor Responsibilities. Contractor shall exercise a reasonable degree of care and diligence in the operation and maintenance of the System in conformance with applicable laws, rules, and regulations. However, Contractor is not responsible for the failure of the System to meet local, state, or federal wastewater treatment or disposal standards, the adequacy, quality provided by the System or for any direct or indirect

loss, injury or damage resulting from the diminution or interruption of service within the System, unless and to the extent such failure is caused by Contractor's negligence.

2. City's Responsibilities. The City represents that the System is in good working order, does not contain any known defective equipment or facilities, is suitable and adequate for the needs of its customers and that all of its facilities are, or shall be, built in accordance with local, state, and federal regulations. The City shall provide:
 - a. All utilities, plant facilities, improvements, and modifications necessary to operate the System in a manner required to meet applicable regulations.
 - b. A complete set of "record" drawings of the System and any improvements, wastewater tap standards, rate schedules and any other information necessary for the administration of the System.
 - c. Safety equipment required at the plants, including, but not limited to, oxygen masks and supplies for the chlorination process.

The City shall perform all duties and discharge all responsibilities and obligations relating to the operation and maintenance of the System not expressly assumed by the Contractor pursuant to the terms of this Contract.

B. MONETARY AUTHORITY

If at any time a condition exists or arises which, in the opinion of Contractor, requires repairs or replacements in the System and the cost thereof exceeds the sum of \$5,000, Contractor shall obtain the consent from the City Council or its designated representative prior to making such repair or replacement. Notwithstanding the foregoing, however, if at any time a condition exists or arises which, in the opinion of Contractor, is of an emergency nature and requires the immediate repair or replacement of equipment regardless of the amount, Contractor, after reasonable attempts to obtain consent, shall proceed with such repair or replacement without the necessity of obtaining the consent of the City Council or its designated representative. The failure to obtain such consent prior to the making of such emergency repair or replacement shall not affect the obligation of the City to compensate the Contractor for any work performed.

C. NON-COMPENSABLE ITEMS

The compensation to be paid to the Contractor herein is exclusive of any tax, assessment, regulatory expense, or other charge which may be imposed upon Contractor by any governmental authority as a result of performing its obligations pursuant to this Contract other than taxes upon the purchase of material, utilities, supplies, and parts. In the event Contractor is required by applicable law or regulation to pay or collect any such tax, assessment or regulatory expense or other charge on account of this Contract or its performance hereunder, then the amount thereof shall be reimbursed to the Contractor by the City (in addition to the compensation provided herein). However, the Contractor shall be responsible at its own expense for all corporate income and franchise taxes arising out of its operations. The Contractor shall indemnify and hold the City harmless from any liability for any and all such taxes or contributions or interest or penalties for failure to pay same.

**SCHEDULE OF STANDARD RATES
ATTACHMENT “B”**

Base Monthly Operations Fees

Lift Station	\$ 750.00	per lift station, per month
Management & Compliance	\$ 750.00	per month
Wastewater & Trash/Recycling	\$ 3.75	per connection
Trash/Recycling	\$ 3.75	per connection

The following is a partial list of Contractor’s charges showing the current rates:

Sanitary Sewer Inspection

Residential	\$ 50.00	per inspection
Commercial	Custom Quote	per inspection

Customer Service Inspections

Residential-Pre-site	\$ 35.00	per inspection/rejection
Residential-Slab	\$ 30.00	per inspection/rejection
Residential-Wall	\$ 30.00	per inspection/rejection
Residential-Fixture	\$ 60.00	per inspection/rejection
Residential-Final Site Survey	\$ 55.00	per inspection/rejection
Non-Residential	Custom Quote	per inspection/rejection

Other Types of Inspections

Backflow Prevention	\$ 125.00	per inspection/rejection
Grease Trap	\$ 60.00	per inspection

Labor and Supervision

Salary Cost X 2, which consists of the hourly rate and benefit cost X 2.

Overtime rates of time and one-half will apply for work performed in excess of eight (8) hours per day or 40 hours per week, and on weekends and holidays as designated by Contractor as company holidays.

Vehicles and Equipment

Utility Truck	\$ 20.00	per hour
Electrical Vehicle	\$ 37.50	per hour
Maintenance Truck	\$ 35.00	per hour
Mechanical Truck	\$ 37.50	per hour
Chlorination Truck	\$ 37.50	per hour
Crew Truck	\$ 50.00	per hour
Crane Truck	\$ 70.00	per hour
Shoring Equipment	\$ 30.50	per hour
Utility Trailer	\$ 13.00	per hour
Lowboy (Gooseneck) Trailer	\$ 13.50	per hour
Air Scouring Unit	\$ 130.00	per hour

*These units will be available on a per-foot based cost quoted by job.

**SCHEDULE OF STANDARD RATES – CONTINUED
ATTACHMENT “B”**

Other Services

Sludge Management and Disposal	No markup on invoices paid directly by the City	
Landscape Services	Outside contractor rates, plus markup	
Billing and Collection Services	At Cost, No Markup	
Back-charge Administrative Fee	\$ 15.00	per back-charge
Delinquency Notices	\$ 15.00	per notice
Returned Check/Payment Reversal	\$ 25.00	per transaction
Service Account Transfer/Setup	\$ 15.00	per transfer
Special Studies/Reports	Labor, Vehicle and Equipment rates	

Outside contractor, professional services, and materials (except for billing and collection services) utilized for services in this Attachment “B”, will be billed at cost plus 15%.

Contractor shall hold firm the rates set forth in this Attachment “B” for a period of one (1) year from the date of this Contract. For subsequent years, the regular rates will be increased by the same percentage as any increase in the Urban Consumers – Water and Sewerage Maintenance (CPI-U) for the U.S. City Average, 1982-84=100 as published monthly by the U.S. Department of Commerce, Bureau of Labor Statistics (the “Price Index”), or any replacement to that index from time to time, during the preceding twelve (12) months. The increase in the Price Index shall be determined by calculating the percentage increase between the Price Index in effect as of the month of each and every anniversary of this Contract date over the Price Index in effect as of the month of the previous anniversary date. In no event shall the rates herein be decreased by virtue of any such adjustment.

CITY OF MCLENDON-CHISHOLM

RESOLUTION NO. 2024-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCLENDON-CHISHOLM RESOLVING THE CITY MEETS THE CONSTITUTIONAL REQUIREMENTS TO HOLD AN ELECTION ON THE MATTER OF ADOPTING A HOME-RULE CHARTER; ESTABLISHING A CHARTER COMMISSION; PROVIDING FOR THE INCORPORATION OF PREMISES; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of McLendon Chisholm, Texas (City) is a Type A General Law Municipality located in Rockwall and Kaufman counties, Texas; and

WHEREAS, Article XI, Section 5 of the Texas Constitution grants the power of local self-government to home-rule cities; and

WHEREAS, Article XI, Section 5 of the Texas Constitution states that once a city has more than 5,000 inhabitants, it is authorized to hold an election on the matter of adopting a home-rule city charter; and

WHEREAS, the City Council has previously found that the City of McLendon-Chisholm population exceeds 5,000 inhabitants; and

WHEREAS, the City Council wishes to establish a Home-Rule Charter Commission to draft a proposed City of McLendon-Chisholm Charter to be submitted to the City's qualified voters at a future election on the matter.

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

Section 1: The findings set forth above are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: On July 9th, 2024, the City Council by Resolution 2024 – 10 affirmed that the population of the City of McLendon-Chisholm, Texas is greater than 5,000. The City Council has reliable data establishing the population at 6,564 based upon Rockwall County 911-Residential unit estimates of 2188 and the 2020 United States Census estimate of 3 persons per household in the City of McLendon-Chisholm. Therefore, the City Council finds and declares that the City meet the requirements of the Texas Constitution to hold an election on the matter of adopting a home-rule charter. The proposed election date is May 3rd, 2025.

Section 3: The City Council hereby approves the establishment of a Home-Rule Charter Commission to draft a proposed city charter to be submitted to the City's qualified voters at an election on the matter. Pursuant to Texas Local Government Code Section 9.002. The

Commission shall consist of up to fifteen (15) members. The City Council is authorized to make all appointments to the Commission and to designate the Commission chairperson. The City Council and the Charter Commission may hold joint meetings to discuss the status of the proposed Charter. All meetings of the Home Rule Charter Commission shall comply with the Texas Open Meetings Act, as amended.

Section 4: Effective Date. This Resolution shall take effect immediately upon its passage and approval.

DULY RESOLVED&ADOPTED by the City Council of the City of McLendon-Chisholm, Texas on this the _____ day of _____, 2024.

APPROVED:

Bryan McNeal, Mayor

ATTEST:

Angela Jennings, City Secretary



CITY COUNCIL – CITY OF MCLENDON-CHISHOLM, TEXAS

DATE: July 31, 2024

Applicant: Colton Smith
Spiars Engineering and Surveying, Inc.
765 Custer Road
Plano, Texas 75075

Representative: Justin Craig

Property owner: Justin Craig
Tellus-Mann, LLC
130 N. Preston Road, Suite 130
Prosper, Texas 75078

Location: The property is approximately a 19-acre tract of land located generally at the intersection of FM 548 and Mann Road. The Rockwall CAD property identification number is: 10985.

CITY COUNCIL MEETING DATE: August 13, 2024

REQUEST:

The applicant is requesting approval of a preliminary plat that provides for the development of 93 single-family lots on 18.67 acres of land located generally at the intersection of FM 548 and Mann Road. This application is administratively complete and in conformity with the City of McLendon-Chisholm Code of Ordinances.

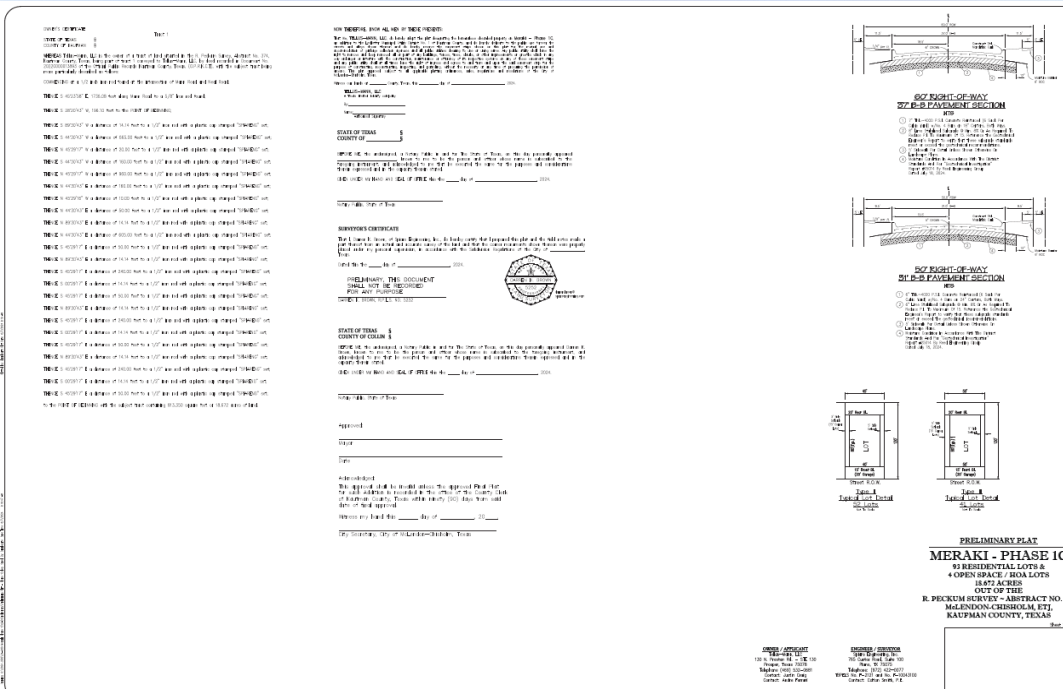
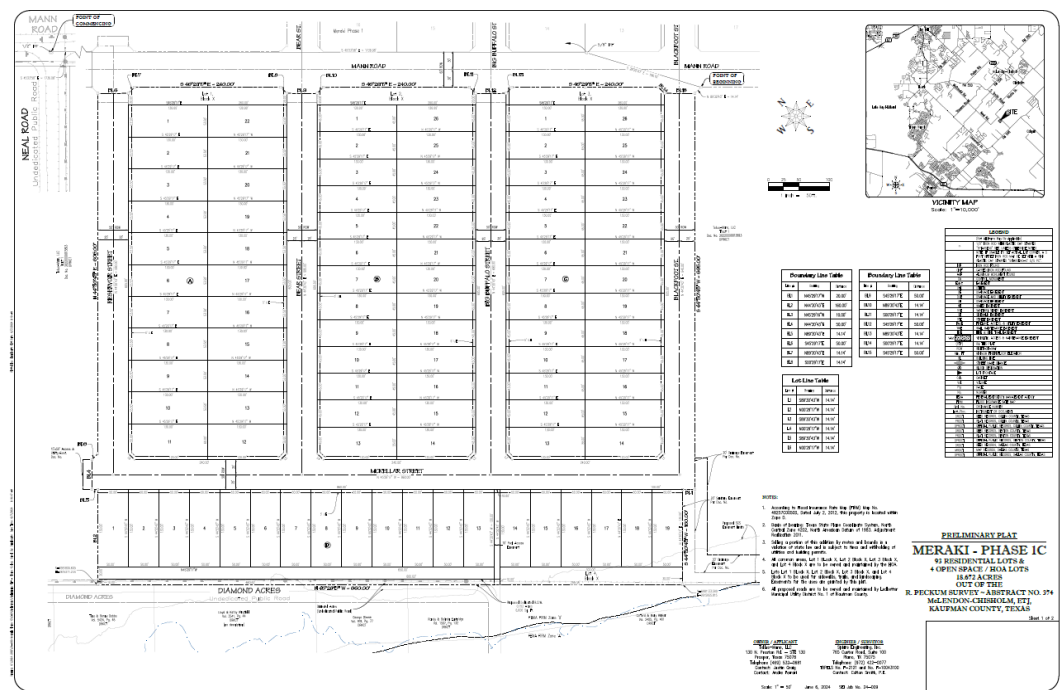
PLANNING AND ZONING COMMISSION RECOMMENDATION: Approval.

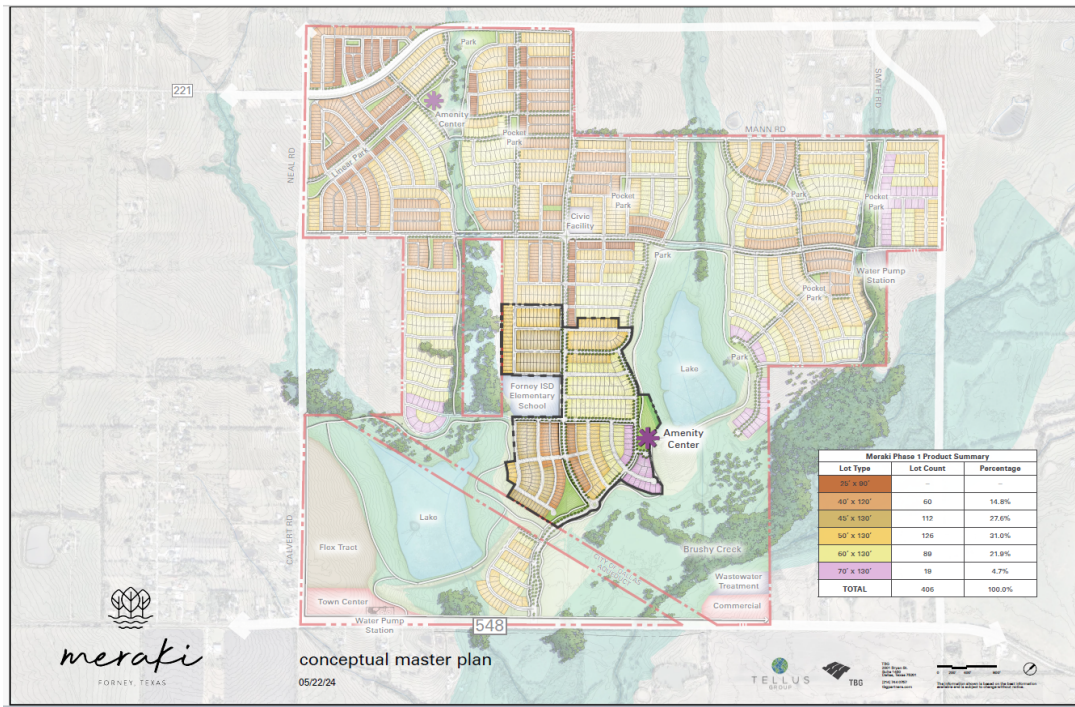
STAFF RECOMMENDATION: Approval.

This application is administratively complete and complies with the McLendon-Chisholm subdivision regulations.

NOTE: Full sized copies of the preliminary plat are available for review at McLendon-Chisholm City Hall.

Requested Preliminary Plat:

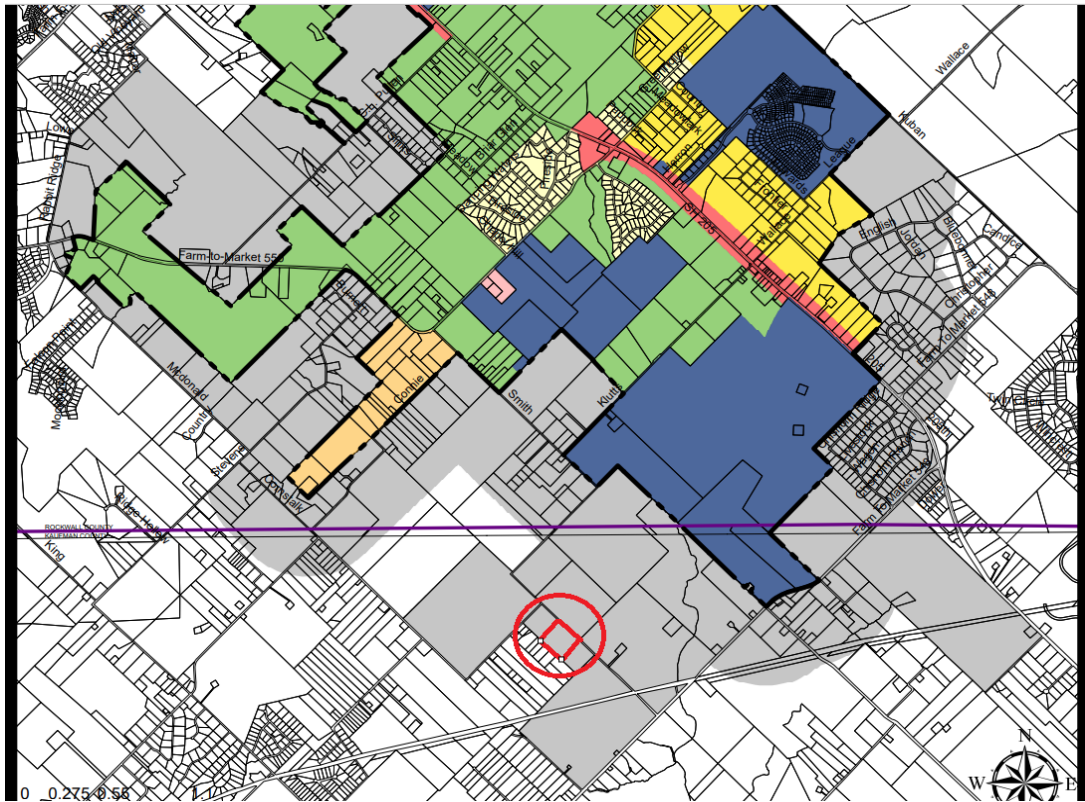




BACKGROUND INFORMATION:

This preliminary plat is part of a larger planned development, Meraki, within the city of McLendon-Chisholm's ETJ area formally known as Mann Ranch.

Previous Zoning Map [shows property as originally zoned – circled in RED]



Additional background information:

This installation is part of a larger master planned community, Meraki, formally known as Mann Ranch.

Meraki Phase 1A



CITY OF McLENDON-CHISHOLM
PLAT APPLICATION

Application Date: _____

Items Submitted. Check all that Apply:

- ☒ Preliminary Plat: \$175 per lot + \$10 per acre (acreage rounded to the nearest whole acre) + ALL Consultant Costs
- ☐ Final Plat: \$150 per lot + \$10 per acre (acreage rounded to the nearest whole acre) + ALL Consultant Costs
- ☐ Replat/ Amended Plat: \$150 per lot + \$10 per acre (acreage rounded to the nearest whole acre) + ALL Consultant Costs
- ☐ Digital Copy of Submitted Plat/Plan (required)
- ☐ Site Plan
- ☐ Concept Plan
- ☐ Planned Development
- ☐ Vacation of Plat

General Information:

Addition Name (if platted): Meraki Phase 1C (Proposed) Current Zoning: N/A - ETJ

No. of Acres: 18.672 No. of Lots: 93 Proposed Zoning: N/A - ETJ

General Location of Property: Intersection of FM 548 and Mann Road

Proposed Use for Property: Single Family Residential

Applicant Name: Colton Smith

Company: Spiars Engineering and Surveying, Inc.

Address: 765 Custer Road City, State, Zip: Plano, TX 75075

Phone(s): 4697661778 Email: colton.smith@spiarsengineering.com

Owner Name: Tellus-Mann, LLC Contact: Justin Craig

Address: 130 N Preston Road, Suite 130 City, State, Zip: Prosper, TX 75078

Legal Description of the Property: Ruth Peckum, 48.923 Acres

County Parcel ID: 10985

Other Information: _____

Page 1 of 2

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 consultant review of any application. Should the actual consultant cost exceed the estimate, the applicant will be invoiced for amounts owed. Unused deposit monies will be refunded to applicant within 60 days of project conclusion.

ALL Consulting Costs - Includes City Planning, City Engineer, City Attorney 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. Consultants invoice the City monthly after work is completed, so it is possible for plat applicants to receive notice of outstanding fees after a plat has been considered. The City will invoice for any remaining consulting charges. Building permits be not 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 \$ 16,465.00 to cover the cost of this application, and an initial deposit of \$ 3,000.00 for consulting fees has been paid to the City of McLendon-Chisholm on this _____ day of _____, 202_.

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: _____ (Seal)

City Secretary: _____

Plotted by: dseppeler.mcd Date: 6/7/2024 9:19 AM

9:19:47 AM

Drawn: C:\Users\JL2024\OneDrive\Drawings\Phase 1C\040-Preliminary\040-Preliminary Plat - Phase 1C.dwg Saved By: dseppeler.mcd Date: 6/7/2024

OWNER'S CERTIFICATE

STATE OF TEXAS §
COUNTY OF KAUFMAN §

Tract 1

WHEREAS Tellus-Mann, LLC is the owner of a tract of land situated in the R. Peckum Survey, Abstract No. 374, Kaufman County, Texas, being part of tract 1 conveyed to Tellus-Mann, LLC, by deed recorded in Document No. 20220000013893 of the Official Public Records Kaufman County, Texas, (O.P.R.K.C.T.), with the subject tract being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod found at the intersection of Mann Road and Neal Road;

THENCE S 45°23'58" E, 1736.08 feet along Mann Road to a 5/8" iron rod found;

THENCE S 28°20'43" W, 196.10 feet to the POINT OF BEGINNING;

THENCE S 89°30'43" W a distance of 14.14 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE S 44°30'43" W a distance of 665.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE N 45°29'17" W a distance of 20.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE S 44°30'43" W a distance of 160.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE N 45°29'17" W a distance of 960.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE N 44°30'43" E a distance of 160.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE N 45°29'16" W a distance of 10.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE N 44°30'43" E a distance of 50.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE N 89°30'43" E a distance of 14.14 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE N 44°30'43" E a distance of 605.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE S 45°29'17" E a distance of 50.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE N 89°30'43" E a distance of 14.14 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE S 45°29'17" E a distance of 240.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE S 00°29'17" E a distance of 14.14 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE S 45°29'17" E a distance of 50.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE N 89°30'43" E a distance of 14.14 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE S 45°29'17" E a distance of 240.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE S 00°29'17" E a distance of 14.14 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE S 45°29'17" E a distance of 50.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE N 89°30'43" E a distance of 14.14 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE S 45°29'17" E a distance of 240.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE S 00°29'17" E a distance of 14.14 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

THENCE S 45°29'17" E a distance of 50.00 feet to a 1/2" iron rod with a plastic cap stamped "SPIARENG" set;

to the POINT OF BEGINNING with the subject tract containing 813,350 square feet or 18.672 acres of land.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That We, **TELLUS-MANN, LLC**, do hereby adopt this plat designating the hereinabove described property as **Meraki – Phase 1C**, on addition to the Ledbetter Municipal Utility District No. 1 of Kaufman County, and do hereby dedicate to the public use forever the streets and alleys shown thereon and do hereby reserve the easement strips shown on this plat for the mutual use and accommodation of garbage collection agencies and all public utilities desiring to use or using same. Any public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any of these easement strips and any public utility shall at all times have the right of ingress and egress to and from upon the said easement strip for the purpose of constructing, reconstructing, inspecting, and patrolling, without the necessity of any time of procuring the permission of anyone. This plat approved subject to all applicable plotting ordinances, rules, regulations and resolutions of the City of McLendon-Chisholm, Texas.

Witness our hands at _____ County, Texas, this _____ day of _____, 2024.

TELLUS-MANN, LLC
A Texas limited liability company
By: _____
Name: _____
Authorized Signatory

STATE OF TEXAS §
COUNTY OF _____ §

BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared _____, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2024.

Notary Public, State of Texas

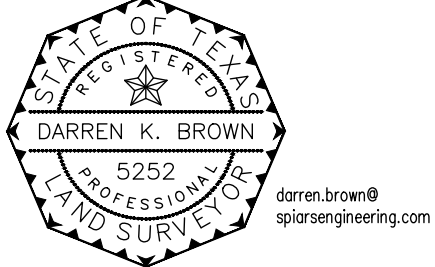
SURVEYOR'S CERTIFICATE

That I, Darren K. Brown, of Spiars Engineering, Inc., do hereby certify that I prepared this plat and the field notes made a part thereof from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision Regulations of the City of _____ Texas.

Dated this the _____ day of _____, 2024.

PRELIMINARY, THIS DOCUMENT
SHALL NOT BE RECORDED
FOR ANY PURPOSE

DARREN K. BROWN, R.P.L.S. NO. 5252



STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned, a Notary Public in and for The State of Texas, on this day personally appeared Darren K. Brown, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2024.

Notary Public, State of Texas

Approved:

Mayor

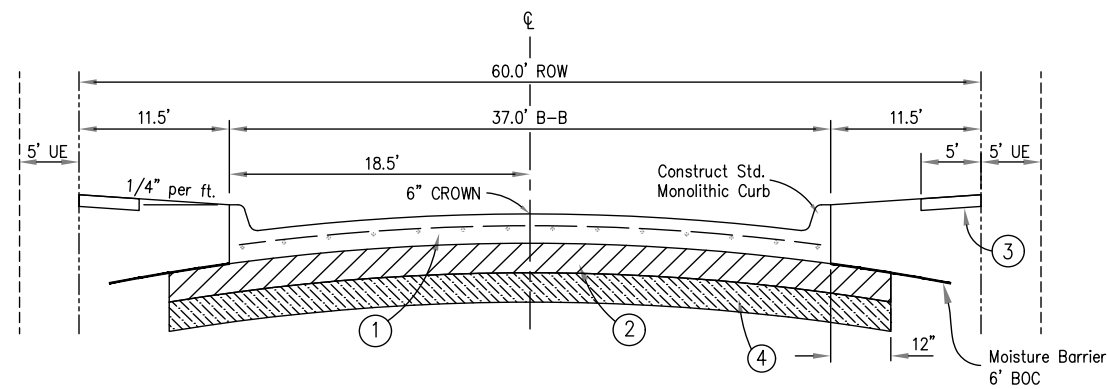
Date

Acknowledged:

This approval shall be invalid unless the approved Final Plat for such Addition is recorded in the office of the County Clerk of Kaufman County, Texas within ninety (90) days from said date of final approval.

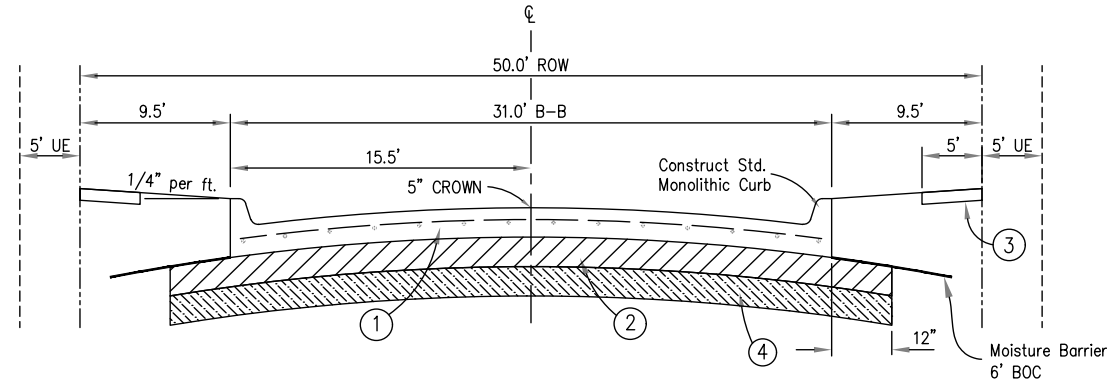
Witness my hand this _____ day of _____, 20 _____.

City Secretary, City of McLendon-Chisholm, Texas



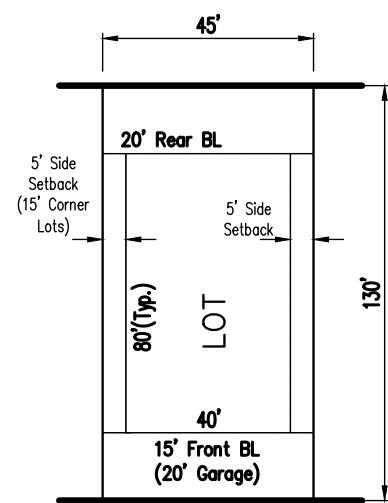
60' RIGHT-OF-WAY
37' B-B PAVEMENT SECTION
NTS

- 1" 7" Thk.~4000 P.S.I. Concrete Reinforced (6 Sack Per Cubic Yard) w/No. 4 Bars on 18" Centers, Both Ways.
- 2" 8" Lime Stabilized Subgrade @ Min. 8% Or As Required To Reduce P.I. To Maximum Of 15. Reference the Geotechnical Engineer's Report to verify that these subgrade standards meet or exceed the geotechnical recommendations.
- 3" 5' Sidewalk Per Detail Unless Shown Otherwise On Landscape Plans.
- 4" Moisture Condition In Accordance With The District Standards And Per "Geotechnical Investigation" Report #25014 By Reed Engineering Group Dated July 18, 2024.

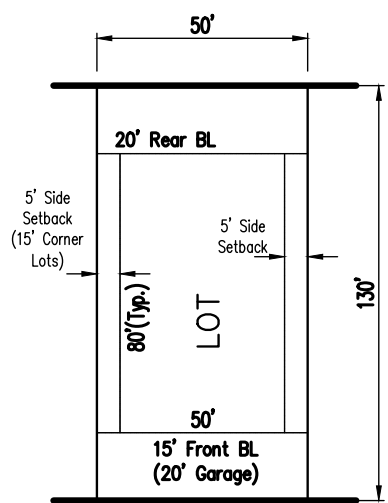


50' RIGHT-OF-WAY
31' B-B PAVEMENT SECTION
NTS

- 1" 6" Thk.~4000 P.S.I. Concrete Reinforced (6 Sack Per Cubic Yard) w/No. 4 Bars on 24" Centers, Both Ways.
- 2" 6" Lime Stabilized Subgrade @ Min. 8% Or As Required To Reduce P.I. To Maximum Of 15. Reference the Geotechnical Engineer's Report to verify that these subgrade standards meet or exceed the geotechnical recommendations.
- 3" 5' Sidewalk Per Detail Unless Shown Otherwise On Landscape Plans.
- 4" Moisture Condition In Accordance With The District Standards And Per "Geotechnical Investigation" Report #25014 By Reed Engineering Group Dated July 18, 2024.



Type II
Typical Lot Detail
52 Lots
Not To Scale



Type III
Typical Lot Detail
41 Lots
Not To Scale

PRELIMINARY PLAT

MERAKI - PHASE 1C

93 RESIDENTIAL LOTS &
4 OPEN SPACE / HOA LOTS
18.672 ACRES
OUT OF THE

R. PECKUM SURVEY ~ ABSTRACT NO. 374
McLENDON-CHISHOLM, ETJ,
KAUFMAN COUNTY, TEXAS

Sheet 2 of 2

OWNER / APPLICANT
Tellus-Mann, LLC
130 N. Preston Rd. – STE 130
Prosper, Texas 75078
Telephone (469) 532-0681
Contact: Justin Craig
Contact: Andre Ferrari

ENGINEER / SURVEYOR
Spiars Engineering, Inc.
765 Custer Road, Suite 100
Plano, TX 75075
Telephone: (972) 422-0077
TBPELS No. F-2121 and No. F-10043100
Contact: Colton Smith, P.E.

Scale: None June 6, 2024 SEI Job No. 24-009



City of McLendon-Chisholm

Staff Report

Date: August 13, 2024

Agenda Item: Discuss and consider action for approving an updated franchise agreement for an expiring franchise agreement with ONCOR Power Company

Financial Impact: .003192 times kWh consumption within the city limits

Background:

1. **Is this proposed franchise agreement the same as the existing agreement?** Yes and no. In general, both agreements cover electric facilities and the use of city right of way (the right, privilege and franchise to construct, extend, maintain and operate in, along, under and across the present and future streets, alleys, highways, easements held by the City to which the City holds the property rights in regard to use for utilities, public ways and other public property). That has not changed. What has changed over the years is case law such as the City of Richardson (alley ways) and City of Allen (underground) case rulings.
2. **What is the current term of the existing agreement?** The current franchise dates back to 1970 and expires on December 31, 2024 per the attached amendment (changed from annual to quarterly payments). The new agreement has a term of 20 years.
3. **Is the rate the same?** Yes, rate or factor remains the same at 0.003192 times kWh consumption based on premises within City limits. This must remain the same.
4. **What are the changes included in the proposed agreement from the existing agreement?** Case law and standardized language. With this agreement being so old, the new agreement includes current standard franchise language that we utilize within all of our cities. This is considered a standard agreement.

Staff Mr. Konrad Hildebrandt, City Administrator

**McClendon-Chisholm
Electric Franchise**

FRANCHISE AMENDMENTS

ORDINANCE NO. 93-04

AN ORDINANCE AMENDING THE EXISTING FRANCHISE BETWEEN THE CITY AND TEXAS UTILITIES ELECTRIC COMPANY TO PROVIDE FOR A DIFFERENT CONSIDERATION; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR ACCEPTANCE BY TEXAS UTILITIES ELECTRIC COMPANY; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, Texas Utilities Electric Company (hereinafter called "TU Electric") is engaged in the business of providing electric utility service within the City and is using the public streets, alleys, grounds and rights-of-ways within the City for that purpose under the terms of a franchise ordinance heretofore duly passed by the governing body of the City and duly accepted by TU Electric; and

WHEREAS, TU Electric has, pursuant to said franchise ordinance, been paying to the City a sum equal to three percent (3%) of its gross receipts from the retail sale of electric power and energy within the City for the rights and privileges set forth in said franchise ordinance and, in addition thereto, has reimbursed the City for its ratemaking expenses pursuant to Section 24 of the Public Utility Regulatory Act; and

WHEREAS, the City and TU Electric desire to amend said franchise ordinance to provide for a different consideration to consist of a sum equal to four percent (4%) of its gross receipts from the retail sale of electric power and energy within the City, which different consideration includes, among other things, TU Electric's obligation to reimburse the City for its ratemaking and other regulatory expenses to be incurred by the City involving the regulation of TU Electric;

Now, Therefore,

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

SECTION 1. The consideration payable by TU Electric for the rights and privileges granted to TU Electric by the franchise ordinance heretofore duly passed by the governing body of this City and duly accepted by TU Electric is hereby changed to be four percent (4%) of its gross receipts from the retail sale of electric power and energy within the corporate limits of the City, said changed percentage to be applied to said gross receipts beginning on June 1, 1993, and being payable as specified in said franchise ordinance and based upon the same time periods as specified in said franchise ordinance and being payment for the said rights and privileges during the period specified in said franchise ordinance, said payment being in lieu of and shall be accepted as payment for all of TU Electric's obligations to pay municipal charges, fees, rentals, pole rentals, wire taxes, inspection fees, easement taxes, franchise taxes, certain regulatory expenses under Section 24 of the Public Utility Regulatory Act or any similar or successor law, or other charges and taxes of every kind, except ad valorem taxes, sales and use taxes, and special taxes and assessments for public improvements.

SECTION 2. TU Electric shall make a one-time payment hereunder for the purpose of making the changed consideration as specified in Section 1 hereof effective on June 1, 1993, without altering the payment dates specified in said franchise ordinance heretofore duly

passed by the governing body of this City and duly accepted by TU Electric, said one-time payment being due and payable thirty (30) days after TU Electric's acceptance of this ordinance as provided in Section 6 hereof, and being a sum calculated as follows: (a) TU Electric shall determine the monthly average of its gross receipts from the retail sale of electric power and energy within the City during the period upon which the most recent franchise payment made to the City prior to June 1, 1993, was based; (b) the said monthly average of its said gross receipts shall be multiplied by 1% (0.01); and (c) the product so calculated shall be multiplied by the number of whole months from June 1, 1993, through the last day of the last month of the period for which the most recent franchise payment made to the City prior to June 1, 1993, was made.

SECTION 3. Notwithstanding anything to the contrary in Section 1 hereof, if TU Electric files general rate cases and the City incurs cumulative expenses, otherwise reimbursable by TU Electric under Section 24 of the Public Utility Regulatory Act or similar or successor law, in excess of \$4 million, then in such event, TU Electric shall reimburse all of the expenses incurred by the City in connection with all general rate cases filed during the period ended fifteen (15) years from the effective date hereof in excess of said \$4 million. The term "general rate case" as used in this Section means a rate case initiated by TU Electric in which it seeks to increase its rates charged to a substantial number of its customer classes in the City and elsewhere in its system and in which TU Electric's overall revenues are determined in setting such

rates. City agrees to exercise reasonable best efforts, considering the facts and circumstances, to keep its expenses on average to under \$1,000,000 per general rate case.

SECTION 4. Notwithstanding the provisions of Section 1 hereof, TU Electric will continue to reimburse the City's ratemaking expenses, if any, in connection with the appeal and any remand of Public Utility Commission of Texas Docket No. 9300 that are otherwise reimbursable under Section 24 of the Public Utility Regulatory Act, and will continue to reimburse the City's ratemaking expenses, if any, in connection with Public Utility Commission of Texas Docket No. 11735 that are otherwise reimbursable under Section 24 of the Public Utility Regulatory Act to the extent that said ratemaking expenses are incurred through the entry of the last action by the Public Utility Commission of Texas (i.e., the said Commission's order overruling the last motion for rehearing) in said Docket No. 11735; the City hereby agrees that any ratemaking expenses incurred in connection with said Docket No. 11735 that the City incurs on appeal of said order will be the City's sole responsibility and further agrees -- in the events that the City is a participant in the joint intervention of cities managed by the Steering Committee of TU Electric Service Area Cities intervening in Docket No. 11735, that the City decides to continue to participate with the Steering Committee in such appeal of said order, and TU Electric is required to reimburse said Steering Committee for ratemaking expenses under Section 24 of the Public Utility Regulatory Act that are incurred on appeal of said

order in Docket No. 11735 -- to reimburse TU Electric the City's share of reimbursable expenses related to said appeal and owed by TU Electric to said Steering Committee determined by the methodology chosen by the said Steering Committee (the City to notify TU Electric of the method so chosen by the Steering Committee prior to the submission of an invoice by the Steering Committee for the payment by TU Electric of said reimbursable expenses related to said appeal).

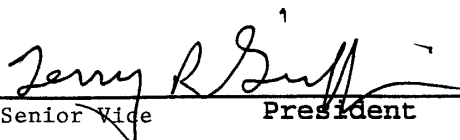
SECTION 5. In all respects, except as specifically and expressly amended by this ordinance, the said franchise ordinance heretofore duly passed by the governing body of this City and duly accepted by TU Electric shall remain in full force and effect according to its terms until said franchise ordinance terminates as provided therein.

SECTION 6. This ordinance shall take effect from and after its final passage and TU Electric's acceptance. TU Electric shall, within fifteen (15) days from the passage of this ordinance, file its written acceptance of this ordinance with the Office of the City Secretary in substantially the following form:

To the Honorable Mayor and City Council:

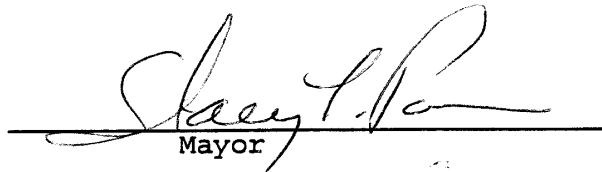
Texas Utilities Electric Company (TU Electric), acting by and through the undersigned authorized officer, hereby accepts, on this the 21st day of July, 1993, Ordinance No. 93-04 amending the current franchise between the City and TU Electric.

TEXAS UTILITIES ELECTRIC COMPANY

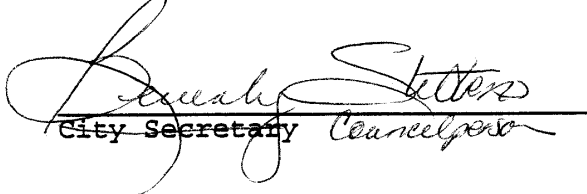
By: 
Senior Vice President

SECTION 7. It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

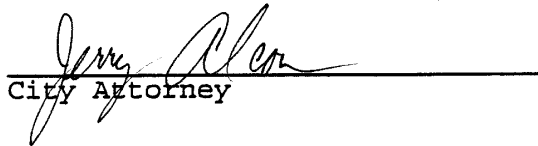
PASSED AND APPROVED BY THE CITY _____ COUNCIL _____ OF THE CITY OF
_____ MCLENDON-CHISHOLM _____, TEXAS, this the _____ 12TH _____ day of
_____ JULY _____, 1993.


Mayor

ATTEST:


City Secretary

APPROVED AS TO FORM:


City Attorney



July 21, 1993

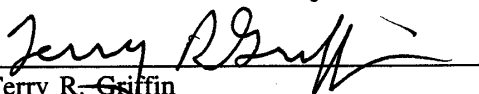
Terry R. Griffin
Sr. Vice President

TO THE MAYOR AND CITY COUNCIL
OF THE CITY OF MCLENDON-CHISHOLM, TEXAS:

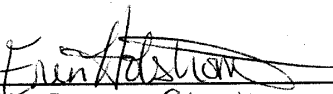
The undersigned hereby accepts the terms of that certain franchise passed and adopted by the City Council of the City of McLendon-Chisholm, Texas, by ordinance duly approved by the Mayor and attested by the City Secretary on July 12, 1993, same being, "AN ORDINANCE AMENDING THE EXISTING FRANCHISE BETWEEN THE CITY AND TEXAS UTILITIES ELECTRIC COMPANY TO PROVIDE FOR A DIFFERENT CONSIDERATION; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR ACCEPTANCE BY TEXAS UTILITIES ELECTRIC COMPANY; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW."

IN TESTIMONY WHEREOF, witness the corporate signature of Texas Utilities Electric Company by its duly authorized officer, this the 21st day of July, 1993.

TEXAS UTILITIES ELECTRIC COMPANY


Terry R. Griffin
Sr. Vice President

Original acceptance of franchise, of which the foregoing is a true copy, was filed in my office on the 27 day of July, 1993, at 11 o'clock 2 .m.


Erin Holston
City Secretary Clerk
City of McLendon-Chisholm, Texas

(CITY SEAL)

**ORIGINAL
FRANCHISE**

Ordinance No #1

AN ORDINANCE GRANTING TO TEXAS POWER & LIGHT COMPANY, ITS
SUCCESSORS AND ASSIGNS, AN ELECTRIC LIGHT, HEAT AND POWER FRANCHISE

SR

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MC LENDON-CHISHOLM,
TEXAS:

Section 1: That there is hereby granted to Texas Power & Light Company, its successors and assigns (herein called the "Grantee"), the right, privilege and franchise until January 1, 2020 to construct, maintain and operate in the present and future streets, alleys, and public places of the Town of McLendon-Chisholm, Texas, and its successors, electric light and power lines, with all necessary or desirable appurtenances (including underground conduits, poles, wires, transmission lines and other structures and telephone wires for its own use), for the purpose of supplying electricity to the said Town, the inhabitants thereof, and persons and corporations beyond the limits thereof, for light, heat, power and other purposes. *CM*

Section 2: Poles, structures and other appurtenances shall be so erected and maintained as not to interfere unreasonably with traffic over streets and alleys. The location of all poles, conduits and other structures shall be fixed under the supervision of the street and alley committee of the Town of McLendon-Chisholm, or the successors to the duties of that committee, but not so as to interfere unreasonably with the proper operation of said lines.

Section 3: The service furnished hereunder to said Town and its inhabitants shall be first class in all respects considering all circumstances, and shall be subject to such reasonable rules and regulations as the Grantee may make from time to time. The Grantee may require reasonable security for the payment of its bills.

Section 4: The Grantee shall hold the Town harmless from all expense or liability for any act or neglect of the Grantee hereunder.

Section 5: That on acceptance of this franchise by Texas Power & Light Company, it shall pay to the Town of McLendon-Chisholm, the sum of Two hundred and no/100 Dollars (\$200.00), as street rental for twelve (12) months succeeding January 1, 1970, and on January 1, 1971, and annually thereafter on January 1 of each succeeding year for the life of this franchise, Texas Power & Light Company, its successors and assigns, shall pay to the Town of McLendon-Chisholm a sum equal to two per cent (2%) of its gross revenue received from the sale of electric power and energy by said Company within the corporate limits of said Town for the preceding twelve months ending October 31 in full payment for the privilege of using and occupying the streets, highways, easements, alleys, parks, and other public places in the Town of McLendon-Chisholm, whether as rental, supervision and inspection charges, or otherwise for twelve months succeeding January 1 of year in which payment is made. This payment shall be in lieu of any other tax or increased rate of tax or other imposition, assessment, or charges, except ad valorem taxes.

Section 6: The Grantee shall file its written acceptance of this franchise within sixty (60) days after its passage and approval.

Section 7: This franchise is not exclusive, and nothing herein contained shall be construed so as to prevent the Town from granting other like or similar rights and privileges to any other person, firm or corporation.

PASSED AND APPROVED this 1st day of March, 19 70.

C M Shook
MAYOR

ATTEST:

J. H. Ducker
Town Secretary

G. J. Seal
TOWN SEAL

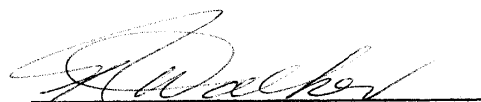
CERTIFICATION

STATE OF TEXAS

COUNTY OF ROCKWALL

I, _____, Town Secretary of the Town of McLendon-Chisholm, Texas, duly qualified, do hereby certify that the attached and foregoing copy of an ordinance entitled, "AN ORDINANCE GRANTING TO TEXAS POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC LIGHT, HEAT AND POWER FRANCHISE," was passed and approved at a ^{Regular} ~~Called~~ meeting of the Town Council of said Town on the 3rd day of March, 19 70.

GIVEN UNDER MY HAND AND SEAL OF THE Town of McLendon-Chisholm, Texas, this the 3rd day of March, 19 70.



Town Secretary, Town of
McLendon-Chisholm, Texas


TOWN SEAL

ORDINANCE NO. 2006-13

AN ORDINANCE AMENDING EXISTING FRANCHISE ORDINANCE BETWEEN THE CITY OF MCLENDON-CHISHOLM AND TXU ELECTRIC DELIVERY COMPANY, A TEXAS CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO PROVIDE FOR A DIFFERENT PAYMENT SCHEDULE; PROVIDING AN EXTENSION OF THE FRANCHISE TERM; PROVIDING FOR TXU ELECTRIC DELIVERY ACCEPTANCE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, TXU Electric Delivery Company, successor in interest to Texas Utilities Electric Company (hereinafter called "Company") is engaged in the business of providing electric utility service within the City of McLendon-Chisholm, Texas (hereinafter called "City") and is using the public rights-of-ways within the City for that purpose under the terms of a franchise ordinance heretofore duly passed by the governing body of the City and duly accepted by Company; and

WHEREAS, pursuant to Letter Agreement to Resolve Outstanding Franchise Issues dated May 8, 2006, the City has requested and Company has agreed to amend said franchise ordinance to provide for a different payment schedule and an extension of the term;

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

SECTION 1: The franchise, as amended, between City and Company is amended as follows:

- A. A final annual payment was made on or before January 1, 2006, based on each kilowatt hour of electricity delivered by Company during the twelve-month period ending October 31, 2005, to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries. This payment was for the rights and privileges granted under the franchise for the twelve month period January 1, 2006 – December 31, 2006.

Effective April 1, 2006 the annual prospective payment schedule is hereby changed to a quarterly prospective schedule as follows:

Payment Due Date	Basis Period	Privilege Period (Following Year)
April 1	Nov. 1 – Jan. 31	Jan. 1 – Mar. 31
July 1	Feb. 1 – April 30	Apr. 1 – June 30
Oct. 1	May 1 – July 31	July 1 – Sept. 30
Jan. 1	Aug. 1 – Oct. 31	Oct. 1 – Dec. 31

The first quarterly payment will be due and payable on or before April 1, 2006, based on the period beginning November 1, 2005 and ending January 31, 2006 for the rights and privileges granted under the franchise during the period beginning

January 1, 2007 and ending March 31, 2007. If this franchise amendment is not effective prior to the first quarterly payment date, Company will pay any quarterly payments due within 30 days of the effective date of this amendment. Subsequent payments will be made on a quarterly basis as provided in the above schedule. The final payment under this Franchise will be made on or before January 1, 2024, based on the period beginning August 1, 2023 and ending October 31, 2023, for the rights and privileges beginning October 1, 2024 and ending December 31, 2024.

After the final payment date of January 1, 2024, Company may continue to make additional quarterly payments in accordance with the above schedule. City acknowledges that such continued payments will correspond to privilege periods that extend beyond the term of this franchise and that such continued payments will be recognized in any subsequent franchise agreement as full payment for the relevant quarterly periods; and

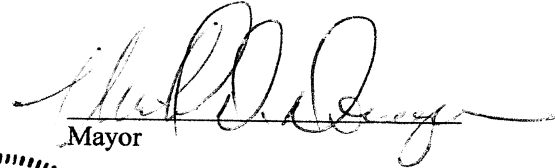
- B. The term of the franchise is hereby extended for an additional five years to expire on December 31, 2024.

SECTION 2: In all respects, except as specifically and expressly amended by this ordinance, the franchise heretofore duly passed by the governing body of the City and duly accepted by Company shall remain in full force and effect according to its terms until said franchise ordinance terminates as provided herein.

SECTION 3: This ordinance shall take effect upon its final passage and Company's acceptance. Company shall, within sixty (60) days from the passage of this ordinance, file its written acceptance of this ordinance with the Office of the City Secretary.

SECTION 4. It is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
| **MCLENDON-CHISHOLM, TEXAS, this the 26th day of June, 2006.**


Mayor

ATTEST:

City Secretary



TO THE MAYOR AND CITY COUNCIL
OF THE CITY OF MCLENDON-CHISHOLM, TEXAS:

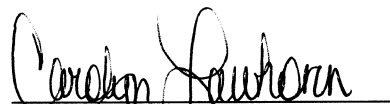
TXU Electric Delivery Company, acting by and through the undersigned authorized officer, hereby accepts in all respects, Ordinance No. 2006-13 amending the current electric franchise between the City and TXU Electric Delivery. "AN ORDINANCE AMENDING EXISTING FRANCHISE ORDINANCE BETWEEN THE CITY OF MCLENDON-CHISHOLM AND TXU ELECTRIC DELIVERY COMPANY, A TEXAS CORPORATION, ITS SUCCESSORS AND ASSIGNS, TO PROVIDE FOR A DIFFERENT PAYMENT SCHEDULE; PROVIDING AN EXTENSION OF THE FRANCHISE TERM; PROVIDING FOR TXU ELECTRIC DELIVERY ACCEPTANCE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW."

IN TESTIMONY WHEREOF, witness the corporate signature of TXU Electric Delivery Company by its duly authorized officer, this the 19 day of July, 2006.

TXU ELECTRIC DELIVERY COMPANY


Senior Vice President

Original acceptance of this franchise amendment, of which the foregoing is a true copy, was filed in my office on the 21st day of July, 2006.


City Secretary



ORDINANCE NO. _____

AN ORDINANCE GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS, PUBLIC UTILITY EASEMENTS, PUBLIC WAYS AND PUBLIC PROPERTY OF THE CITY OF MCLENDON-CHISHOLM, TEXAS, PROVIDING FOR COMPENSATION THEREFOR, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE, PROVIDING FOR THE REPEAL OF ALL EXISTING FRANCHISE ORDINANCES TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS PREDECESSORS AND ASSIGNS, AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC.

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

SECTION 1. GRANT OF AUTHORITY. That there is hereby granted to Oncor Electric Delivery Company LLC, its successors and assigns (herein called "Company"), the right, privilege and franchise to construct, extend, maintain and operate in, along, under and across the present and future streets, alleys, highways, easements held by the City to which the City holds the property rights in regard to use for utilities, public ways and other public property ("Public Rights-of-Way" or "Rights-of-Way") of the City of McLendon-Chisholm, Texas (herein called "City") electric power lines, with all necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, telephone and communication lines, and other structures for Company's own use), (herein called "Facilities") for the purpose of delivering electricity to the City, the inhabitants thereof, and persons, firms and corporations beyond the corporate limits thereof, for the term set out in Section 7.

SECTION 2. Poles, towers and other structures shall be so erected as not to unreasonably interfere with traffic over streets, alleys and highways.

SECTION 3. The City reserves the right to lay, and permit to be laid, storm, sewer, gas, water, wastewater and other pipe lines, cables, and conduits, or other improvements and to do and permit to be done any underground or overhead work that may be necessary or proper in, across, along, over, or under Public Rights-of-Way occupied by Company. The City also reserves the right to change in any manner any curb, sidewalk, highway, alley, public way, street, utility lines (or in the case of utility line owned by Company, to require that change by Company), storm sewers, drainage basins, drainage ditches, and the like. City shall provide Company with at least

thirty (30) days' notice when requesting Company to relocate facilities and shall specify a new location for such facilities along the Public Rights-of-Way. Company shall, except in cases of emergency conditions or work incidental in nature, obtain a permit, if required by City ordinance, prior to performing work in the Public Rights-of-Way, except in no instance shall Company be required to pay fees or bonds related to its use of the Public Rights-of-Way, despite the City's enactment of any ordinance providing the contrary. Company shall construct its facilities in conformance with the applicable provisions of the National Electrical Safety Code. City-requested relocations of Company facilities in the Public Rights-of-Way shall be at the Company's expense; provided however, if the City is the end use Retail Customer (customer who purchases electric power or energy and ultimately consumes it) requesting the removal or relocation of Company Facilities for its own benefit, or the project requiring the relocation is solely aesthetic/beautification in nature, it will be at the total expense of the City. Provided further, if the relocation request includes, or is for, the Company to relocate above-ground facilities to an underground location, City shall be fully responsible for the additional cost of placing the facilities underground.

If any other corporation or person (other than City) requests Company to relocate Company facilities located in City Rights-of-Ways, the Company shall not be bound to make such changes until such other corporation or person shall have undertaken, with good and sufficient bond, to reimburse the Company for any costs, loss, or expense which will be caused by, or arises out of such change, alteration, or relocation of Company's Facilities. City may not request the Company to pay for any relocation which has already been requested, and paid for, by any entity other than City.

If City abandons any Public Rights-of-Way in which Company has facilities, such abandonment shall be conditioned on Company's right to maintain its use of the former Public Rights-of-Way and on the obligation of the party to whom the Public Rights-of-Way is abandoned to reimburse Company for all removal or relocation expenses if Company agrees to the removal or relocation of its facilities following abandonment of the Public Rights-of-Way. If the party to whom the Public Rights-of-Way is abandoned requests the Company to remove or relocate its facilities and Company agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Rights-of-Way, the expense of any right-of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the

relocation.

SECTION 4.

A. In consideration of the granting of this Franchise, Company shall, at its sole cost and expense, indemnify and hold the City, and its past and present officers, agents and employees harmless against any and all liability arising from suits, actions or claims regarding injury or death to any person or persons, or damages to any property arising out of or occasioned by the intentional and/or negligent acts or omissions of Company or any of its officers, agents, or employees in connection with Company's construction, maintenance and operation of Company's Facilities in the City Public Rights-of-Way, including any court costs, reasonable expenses and reasonable defenses thereof.

B. This indemnity shall only apply to the extent that the loss, damage, death or injury is attributable to the negligence or wrongful act or omission of the Company or its officers, agents or employees, and does not apply to the extent such loss, damage, death or injury is attributable to the negligence or wrongful act or omission of the City or the City's officers, agents, or employees or any other person or entity. This provision is not intended to create a cause of action or liability for the benefit of third parties but is solely for the benefit of Company and the City.

C. In the event of joint and concurrent negligence or fault of both Company and the City, responsibility and indemnity, if any, shall be apportioned comparatively between the City and Company in accordance with the laws of the state of Texas without, however, waiving any governmental immunity available to the City under Texas law and without waiving any of the defenses of the parties under Texas law. Further, in the event of joint and concurrent negligence or fault of both Company and the City, responsibility for all costs of defense shall be apportioned between the City and Company based upon the comparative fault of each.

D. In fulfilling its obligation to defend and indemnify City, Company shall have the right to select defense counsel, subject to City's approval, which will not be unreasonably withheld. Company shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this franchise. If Company fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Company shall be liable for all reasonable defense costs incurred by City, except as otherwise provided in section 4.B. and 4.C.

SECTION 5. This franchise is not exclusive, and nothing herein contained shall be construed so as to prevent the City from granting other like or similar rights, privileges and

franchises to any other person, firm, or corporation. Any Franchise granted by the City to any other person, firm, or corporation shall not unreasonably interfere with this Franchise.

SECTION 6. In consideration of the grant of said right, privilege and franchise by the City and as full payment for the right, privilege and franchise of using and occupying the said Public Rights-of-Way, and in lieu of any and all occupation taxes, assessments, municipal charges, fees, easement taxes, franchise taxes, license, permit and inspection fees or charges, street taxes, bonds, street or alley rentals, and all other taxes, charges, levies, fees and rentals of whatsoever kind and character which the City may impose or hereafter be authorized or empowered to levy and collect, excepting only the usual general or special ad valorem taxes which the City is authorized to levy and impose upon real and personal property, sales and use taxes, and special assessments for public improvements, Company shall pay to the City the following:

- A. A final quarterly payment was made on or before July 1, 2024 for the basis period of February 1, 2024 through April 30, 2024 and the privilege period of April 1, 2025 through June 30, 2025 in accordance with the provisions in the previous franchise.
- B. As authorized by Section 33.008(b) of PURA, the original franchise fee factor calculated for the City in 2002 was 0.003040 (the "Base Factor"), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries for determining franchise payments going forward.

Due to a 2006 agreement between Company and City the franchise fee factor was increased to a franchise fee factor of 0.003192 (the "Current Factor"), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of delivery is located within the City's municipal boundaries on a quarterly basis.

However, consistent with the 2006 agreement, should the Public Utility Commission of Texas at any time disallow Company's recovery through rates of the higher franchise payments made under the Current Factor as compared to the Base Factor, then the franchise fee factor shall immediately revert to the Base Factor of 0.003040 and all future

payments, irrespective of the time period that is covered by the payment, will be made using the Base Factor.

Company shall make quarterly payments as follows:

<u>Payment Due Date</u>	<u>Basis Period</u>	<u>Privilege Period (Following Pmt)</u>
October 1	May. 1 - Jul. 31	Jul. 1 - Sept. 30
January 1	Aug. 1 - Oct. 31	Oct. 1 - Dec. 31
April 1	Nov. 1 - Jan. 31	Jan. 1 - Mar. 31
July 1	Feb. 1 - Apr. 30	Apr. 1 - Jun. 30

1. The first payment hereunder shall be due and payable on or before October 1, 2024 and will cover the basis period of May 1, 2024 through July 31, 2024 and the privilege period of July 1, 2025 through September 30, 2025. If this franchise is not effective prior to the first quarterly payment date, Company will pay any payments due within 30 days of the effective date of this agreement. The final payment under this franchise is due on or before January 1, 2044 and covers the basis period of August 1, 2043 through October 31, 2043 and the privilege period of October 1, 2044 through December 31, 2044; and
2. After the final payment date of January 1, 2044, Company may continue to make additional quarterly payments in accordance with the above schedule. City acknowledges that such continued payments will correspond to privilege periods that extend beyond the term of this Franchise and that such continued payments will be recognized in any subsequent franchise as full payment for the relevant quarterly periods.

- C. A sum equal to four percent (4%) of gross revenues received by Company from services identified as DD1 through DD24 in Section 6.1.2 "Discretionary Service Charges," in Oncor's Tariff for Retail Delivery Service (Tariff), effective 1/1/2002, that are for the account and benefit of an end-use retail electric consumer. Company will, upon request by City, provide a cross reference to Discretionary Service Charge numbering changes that are contained in Company's current approved Tariff.

1. The franchise fee amounts based on "Discretionary Service Charges" shall be

calculated on an annual calendar year basis, i.e. from January 1 through December 31 of each calendar year.

2. The franchise fee amounts that are due based on "Discretionary Service Charges" shall be paid at least once annually on or before April 30 each year based on the total "Discretionary Service Charges", as set out in Section 6.C., received during the preceding calendar year. The initial Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2025 and will be based on the calendar year January 1 through December 31, 2024. The final Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2045 and will be based on the calendar year of January 1, 2044 through December 31, 2044.
3. Company may file a tariff or tariff amendment(s) to provide for the recovery of the franchise fee on Discretionary Service Charges.
4. City agrees (i) to the extent the City acts as regulatory authority, to adopt and approve that portion of any tariff which provides for 100% recovery of the franchise fee on Discretionary Service Charges; (ii) in the event the City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of the franchise fees on such Discretionary Service Charges is an issue, the City will take an affirmative position supporting the 100% recovery of such franchise fees by Company and; (iii) in the event of an appeal of any such regulatory proceeding in which the City has intervened, the City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Company.
5. City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Company.
6. In the event of a regulatory disallowance of the recovery of the franchise fees on the Discretionary Service Charges, Company will not be required to continue payment of such franchise fees.

SECTION 7. This Ordinance shall become effective upon Company's written acceptance hereof, said written acceptance to be filed by Company with the City within sixty (60) days after final passage and approval hereof by City. The right, privilege and franchise granted hereby shall expire on December 31, 2044; provided that, unless written notice of cancelation is given by either party hereto to the other not less than sixty (60) days before the expiration of this franchise agreement, it shall be automatically renewed for an additional period of six (6) months from such

expiration date and shall be automatically renewed thereafter for like periods until canceled by written notice given not less than sixty (60) days before the expiration of any such renewal period.

SECTION 8. This Ordinance shall supersede any and all other franchises granted by the City to Company, its predecessors and assigns.

SECTION 9. The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable. If any portion of this Ordinance is declared illegal or unconstitutional by the valid final non-appealable judgment or decree of any court of competent jurisdiction, such illegality or unconstitutionality shall not affect the legality and enforceability of any of the remaining portions of this Ordinance.

SECTION 10. In order to accept this franchise, Company must file with the City Secretary its written acceptance of this franchise ordinance within sixty (60) days after its final passage and approval by City.

SECTION 11. It is hereby officially found that the meeting at which this Ordinance is passed is open to the public and that due notice of this meeting was posted by City, all as required by law.

PASSED AND APPROVED at a regular meeting of the City Council of McLendon Chisholm, Texas, on this the ____ day of _____, 2024.

Mayor
The City of McLendon Chisholm

ATTEST:

City Secretary

STATE OF TEXAS
COUNTY OF ROCKWALL
CITY OF MCLENDON-CHISHOLM

§
§
§



City of McLendon-Chisholm

Staff Report

Date: August 13, 2024

Agenda Item: Discuss and consider action for approving an ordinance authorizing restricted prior service credit for employees who are members of the Texas Municipal Retirement System (TMRS).

Financial Impact: N/A

Background: The City of McLendon Chisholm, Texas authorizes each employee who is a member of the TMRS now or in the future to be granted restricted prior service credit for service previously performed as an employee of any entity described in Section 853.305 of Subtitle G of Title 8, Texas Government Code.

Restricted Prior Service Credit (RPSC) is an optional TMRS benefit that you can offer to your employees that allows them to use previous full-time employment at another public employer to satisfy length of service requirements for TMRS retirement eligibility.

Full-time employment for any of the following entities may qualify:

- A public authority or agency created by the United States.
- Any state or territory of the United States.
- Any political subdivision of any state of the United States.
- Any public agency or authority created by a state or territory of the United States.
- Active-duty military service.

Previously forfeited service with TMRS or one of the following retirement systems: Teacher Retirement System of Texas, Employees Retirement System of Texas, and Judicial

Staff Mr. Konrad Hildebrandt, City Administrator

**AN ORDINANCE AUTHORIZING RESTRICTED PRIOR SERVICE CREDIT FOR
EMPLOYEES WHO ARE MEMBERS OF THE TEXAS MUNICIPAL RETIREMENT
SYSTEM.**

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

Authorization of Restricted Prior Service Credit.

(a) The City of McLendon-Chisholm, Texas (the "City"), authorizes each employee who is a member ("Member") of the Texas Municipal Retirement System (the "System"), now or in the future, to be granted restricted prior service credit for service previously performed as an employee of any entity described in Section 853.305 of Subtitle G of Title 8, Texas Government Code, as amended (which subtitle is referred to as the "TMRS Act"), provided that (1) the employee does not otherwise have credited service in the System for that service, (2) the service meets the requirements of TMRS Act §853.305, and (3) the Member seeking to establish restricted prior service credit submits an application with the verifications required by TMRS Act §853.305.

(b) Pursuant to TMRS Act §853.305, restricted prior service credit may be used only to satisfy length-of-service requirements for retirement eligibility with the System, has no monetary value in computing the annuity payments allowable to the Member, and may not be used in other computations, including computation of Updated Service Credits.

(c) This Ordinance shall be effective on the first day of _____, 20_____.

Passed and approved _____, 20_____.

ATTEST:

APPROVED:

City Secretary

Mayor



City of McLendon-Chisholm

Staff Report

Date:	July 23, 2024
Agenda Item:	Discuss and consider action of upgrade and maintenance of the city council chambers audio video system.
Financial Impact:	Not to exceed \$50,000 (utilization of American Rescue Plan Act Covid 19)
Background:	Due to the inconsistency and ongoing maintenance issues with the City Council Chambers Audio and Video system, it is staff recommended to replace various A/V components and sharpen and fix others in providing a solid and consistent communication product to the city of MC residents. Anticipation is to have this new/upgraded/maintained system completed August 2024. We will include this purchase/installation in our amended FY24 budget to be approved in September 2024.
Presenter:	Mr. Jeff White, Management Analyst