AGENDA
REGULAR CITY COUNCIL MEETING
MONDAY, APRIL 27, 2020 - 6:00 PM
CITY HALL COUNCIL CHAMBERS
209 S. WASHINGTON STREET
KAUFMAN, TEXAS 75142

This meeting will be held using videoconferencing/teleconferencing technology with public access via:
WWW.ZOOM.US/JOIN OR
(888)788-0099 (TOLL FREE)
MEETING/WEBINAR ID: 912-2591-7519
PASSWORD: 668138

PLEDGE OF ALLEGIANCE

CALL MEETING TO ORDER Mayor calls the Meeting to order, states the date and time, state Councilmembers present, and declares a quorum present.**

CITIZENS COMMENTS / REQUEST TO SPEAK ON AGENDA ITEMS (5 MINUTES) Comments about any of the Council agenda items may be taken into consideration at this time or during the agenda item. Comments are limited to five (5) minutes per individual unless additional time is otherwise required by law for translation. Speaking time is not transferable. Citizens may address the City Council on any subject but must first complete a Request to Speak Form so that the Mayor may call your name to speak at the appropriate time on the Agenda. Comments must be directed to the Council as a whole. **When addressing the Council, please step forward to the speaker's podium, state your name and address, and direct your comments to the Mayor and City Council.**

PROCLAMATION

1. Motorcycle Safety and Awareness Month- May 2020

CONSENT AGENDA

2. Consider and take appropriate action on the minutes of the March 30, 2020, Regular City Council Meeting.

3. Consider and take appropriate action on the ratification of a Professional Services Agreement with Freeman-Millican Inc. for the purpose of renewing TPDES Permit for the Wastewater Treatment Plant.

4. Consider and take appropriate action on Resolution R-14-20, a resolution of the City of Kaufman, Texas, accepting the public improvements of the Stormwater Holding Basin project at the Wastewater Treatment Plant.

END OF CONSENT AGENDA

DISCUSSION/ACTION ITEMS

5. Presentation and discussion of the City of Kaufman's Midyear Financial Review

6. Consider and take appropriate action on the Amended City Council of the City of Kaufman, Texas Declaration of Local Disaster for Public Health Emergency and Order.

7. Consider and take appropriate action on the proposed Downtown Development Incentive Program; and authorize the City Manager to finalize policy and other necessary documents to implement the Program.

8. First Reading: Consider and take appropriate action on Ordinance O-08-20, an ordinance of the City of Kaufman, Texas, granting to Trinity Valley Electric Cooperative, Inc., its successors and assigns ("Grantee"), an extension of non-exclusive electric utility franchise Ordinance No. O-11-10, to authorize the non-exclusive right, privilege, and franchise for a term of five (5) years, subject to one (1) extension of five years, to erect, maintain, and operate an electric power utility system in the City of Kaufman, Texas to Grantee in accordance with the terms set forth in the Ordinance, such terms constituting a Franchise Agreement; to authorize Grantee to erect, maintain, and operate its facilities in, over, under, along, and across the present and future public rights-of-way in the city; prescribing compensation for the rights, privileges, and franchise conferred hereunder; prescribing the conditions governing the operation of Grantee's business insofar as it affects the use of public property for the purpose of such business installation, upgrade, maintenance, and operation of Grantee's electric utility system and business; incorporating City's Right to Regulation as set forth in Article X, Utility and Public Service Franchises and Licenses, of the City's Home Rule Charter; containing other provisions relating to the subject; providing for severability; and providing an effective date.

9. Consider and take appropriate action on Ordinance O-09-20, an ordinance of the City of Kaufman, Texas, amending the Code of Ordinances, Chapter 98 "Taxation", Article II "Hotel Occupancy Tax", by repealing Section 98-34 "Quarterly Reports to City Secretary" in its entirety, and adopting a new Section 98-34, entitled "Quarterly Reports and Payment of Taxes" requiring the filing of quarterly reports and making of quarterly payments of local Hotel Occupancy Taxes, and temporarily extending the hotel occupancy tax quarterly payment remittance deadlines for the first, second, and third quarters of the calendar year

2020, such that the deadline for remittance of local hotel occupancy tax shall be extended to December 31, 2020 for those quarters only; Providing for the Incorporation of Premises; Providing a Cumulative/Repealer Clause; Providing a Severability/Conflicts Clause; and Providing an Effective Date.

10. Consider and take appropriate action on Resolution R-12-20, a resolution of the City of Kaufman, Texas, authorizing the City Manager to enter into an agreement with the Texas Department of Transportation to temporarily close SH 34 and FM 1388 for the purpose of the annual Independence Day Celebration Parade

11. Consider and take appropriate action on Resolution R-13-20, a resolution of the City of Kaufman, Texas, supporting implementation of the U.S. Department of Justice Comprehensive Body-Worn Camera Policy and Implementation Program; authorizing the chief of police to apply for a related program grant to fund the purchase of body-worn cameras for the Kaufman Police Department; providing that if the City of Kaufman receives the program grant, the city will match the grant amount for the purchase of body-worn cameras; providing for the incorporation of premises; and providing an effective date.

ANNOUNCEMENTS AND REPORTS FROM CITY MANAGER

12. Receive an update and discussion regarding the following:

    a. Discussion Item Report (DIR)

    b. STAR Transit Ridership Report- March 2020

    c. Careflite Compliance Report- March 2020

    d. Summer Youth Camp Cancellation

    e. TWDB Stormwater Application Update

    f. Council Retreat- May 7 & 8

    g. Regular City Council Meeting- May 18, 2020

    h. Monthly Calendars Attached

EXECUTIVE SESSION

13. The City Council will recess into Executive Session pursuant to Texas Government Code for an executive session regarding the following:

a. Texas Government Code §551.072: Deliberation regarding Real Property, to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person regarding: 54 Acres City Owned Property

b. Texas Government Code §551.087(1&2): Deliberation regarding Economic Development Negotiations, to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations (Section 551.087(1)), and to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1). (Section 551.087(2)) regarding:

i Kaufman Economic Development Corporation property, PID #178591 and #178592, D. Falcon Survey, Abstract No. 151;

ii 54 Acres City Owned Property

c. Texas Government Code §551.071: Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act regarding: COVID matters and City operations

d. Texas Government Code §551.071(1): Consultation with Attorney regarding pending or contemplated litigation or a settlement offer: SOAH Docket No. 473-17-4964.WS; PUC Docket 46662

e. Texas Government Code §551.071(1): Consultation with Attorney regarding pending or contemplated litigation or a settlement offer: Benjamin M. Upchurch vs. City of Kaufman, Cause No. 104441-422, 422nd Judicial District of Kaufman County.

RECONVENE INTO OPEN SESSION In accordance with Texas Government Code, Chapter 551, the City Council will reconvene into Regular Session.

14. Consider and take appropriate action, if any, on matters (a) through (e) discussed in Executive Session.

ADJOURNMENT

I, JESSIE HANKS, CITY SECRETARY, DO HEREBY CERTIFY THAT THIS NOTICE OF MEETING WAS POSTED ON THE WINDOW AT KAUFMAN MUNICIPAL COMPLEX, 209 S. WASHINGTON, KAUFMAN, TEXAS, A PLACE CONVENIENT AND READILY ACCESSIBLE TO THE GENERAL PUBLIC AT ALL TIMES AND SAID NOTICE WAS POSTED AT THE KAUFMAN MUNICIPAL COMPLEX, 209 S. WASHINGTON, KAUFMAN, TEXAS AT 4:30 P.M. ON FRIDAY, APRIL 24, 2020, AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULE TIME OF SAID MEETING.

Jessie Hanks

JESSIE HANKS
CITY SECRETARY

CITY OF KAUFMAN TEXAS

THE CITY COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY OF THE MATTERS LISTED ABOVE, AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE. SECTION 551.071 (CONSULTATION WITH ATTORNEY).

****PURSUANT TO SECTION 551.127, TEXAS GOVERNMENT CODE, ONE OR MORE COUNCILMEMBERS OR EMPLOYEES MAY ATTEND THIS MEETING REMOTELY USING VIDEOCONFERENCING TECHNOLOGY. THE VIDEO AND AUDIO FEED OF THE VIDEOCONFERENCING EQUIPMENT CAN BE VIEWED AND HEARD BY THE PUBLIC BY ACCESSING WWW.ZOOM.US/JOIN OR (888)788-0099 (TOLL FREE) MEETING/WEBINAR ID: 912-2591-7519 PASSWORD: 668138**

THE BUILDING IN WHICH THE ABOVE MEETING WILL BE CONDUCTED IS WHEELCHAIR ACCESSIBLE AND PARKING SPACES FOR THE MOBILITY IMPAIRED ARE AVAILABLE. PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THIS MEETING AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, OR LARGE PRINT ARE REQUESTED TO CONTACT THE CITY SECRETARY'S OFFICE AT 972-932-2216 AT LEAST TWO (2) WORKING DAYS PRIOR TO THE TIME OF THE MEETING SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.

City of Kaufman

Proclamation

WHEREAS, today's society is finding more citizens involved in motorcycling on the roads of our country; and

WHEREAS, motorcyclists are roughly unprotected and therefore more prone to injury or death in a crash than other vehicle drivers; and

WHEREAS, campaigns have helped inform riders and motorists alike on motorcycle safety issues to reduce motorcycle related risks, injuries, and, most of all, fatalities, through a comprehensive approach to motorcycle safety; and

WHEREAS, it is the responsibility of all who put themselves behind the wheel, to become aware of motorcyclists, regarding them with the same respect as any other vehicle traveling the highways of this country; and it is the responsibility of riders and motorists alike to obey all traffic laws and safety rules; and

WHEREAS, urging all citizens of our community to become aware of the inherent danger involved in operating a motorcycle**,** and for riders and motorists alike to give each other the mutual respect they deserve.

NOW, THEREFORE, I, Jeff Jordan, Mayor of the City of Kaufman, do hereby proclaim the month of May as:

Motorcycle Safety and Awareness Month

IN WHITNESS WHEREOF, I have set my hand and caused the Seal of the City to be affixed this 27th day of April, 2020.

Jeff Jordan, Mayor, City of Kaufman

Meeting Date: 4/27/2020 | **Date: 4/15/2020** | **Item #: 2.** | **Dept.: Administration**

Action Item

SUBJECT:

Consider and take appropriate action on the minutes of the March 30, 2020, Regular City Council Meeting.

BACKGROUND:

Author:

Reviewed:
Mike Slye, City Manager

Cost: **Funds Available:** **Source:**

Recommendation:

Safe & Secure	Business Friendly/Economic Development	Partnership & Community Involvement	Healthy & Environmentally Cons. Comm.	Financial & OPS Stewardship
☐	☐	☐	☐	☐

MINUTES OF THE
CITY COUNCIL MEETING
MONDAY, MARCH 30, 2020 - 6:00 PM
CITY HALL COUNCIL CHAMBERS
209 S. WASHINGTON STREET
KAUFMAN, TEXAS 75142

PLEDGE OF ALLEGIANCE

CALL MEETING TO ORDER Mayor calls the Meeting to order, states the date and time, state Councilmembers present, and declares a quorum present.**

Mayor Jordan called the City Council meeting to order at 6:22 PM. Council members present were Jeff Jordan, Patty Patterson, Barry Ratcliffe, Carole Aga, Charles Gillenwater, Jeff Council, and Matt Phillips. Mayor Jordan declared a quorum present. Also present were City Manager Mike Slye, Assistant City Manager Mike Holder, City Attorney Patricia Adams, City Secretary Jessie Hanks, Finance Director Mary Wennerstrom, Development Services Director Marcy Ratcliff, and Police Chief Dana Whitaker.

COVID-19 UPDATE The City Manager will update the Council on any issues pertaining to COVID-19; discussion of same.

Mr. Slye gave an update on the COVID-19 situation to the Council and public.

Dr. Ben Brashear gave an update of the 4 positive cases in Kaufman County. He stated our Hospital is holding up relatively well. There are not enough test kits locally to begin widespread testing in Kaufman County. He reminded everyone to continue social distancing, washing your hands, and avoiding touching your face. He gave some reassuring words to help ease the public regarding the virus.

CITIZENS COMMENTS / REQUEST TO SPEAK ON AGENDA ITEMS (5 MINUTES) Comments about any of the Council agenda items may be taken into consideration at this time or during the agenda item. Comments are limited to five (5) minutes per individual unless additional time is otherwise required by law for translation. Speaking time is not transferable. Citizens may address the City Council on any subject but must first complete a Request to Speak Form so that the Mayor may call your name to speak at the appropriate time on the Agenda. Comments must be directed to the Council as a whole. **When addressing the Council, please step forward to the speaker's podium, state your name and address, and direct your comments to the Mayor and City Council.**

No comments were given.

CONSENT AGENDA

1. **Consider and take appropriate action on the minutes from the February 24, 2020, Regular City Council Meeting.**

2. **Consider and take appropriate action on the minutes from the March 16, 2020, Special**

City Council Meeting.

3. **Consider and take appropriate action on Resolution R-10-20, a resolution of the City of Kaufman, accepting Public Improvements for Kaufman Water System Improvements Project 1- Fair Road Sewer Line Extension, authorizing the final payment in the amount of $10,175, and establishing the date for a two (2) year warranty period.**

Council Member Gillenwater made a motion to approve consent agenda items 1-3 as presented. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

END OF CONSENT AGENDA

PUBLIC HEARING

4. **Hold a public hearing, consider and take appropriate action on Ordinance O-03-20, an ordinance of the City Council of the City of Kaufman, Texas, providing for the continuance of Ordinance O-19-99, as amended, codified as Division 2 – "Curfew Hours" of Article V. "Minors" of Chapter 66 "Offenses and Miscellaneous Provisions" of the Code of Ordinances of the City in order to continue and extend the curfew hours for minors in the City of Kaufman in accordance with Article V, such hours currently being from 12:01 a.m. on any day until 6:00 a.m. of the same day; providing for publication, providing a penalty not to exceed $500 for each offense; and providing an effective date.**

Chief Whitaker explained this ordinance was originally adopted in 1999 and renewed every 3 years. The Police Department hasn't had an issue enforcing this ordinance. He believes it is an essential tool to the police department.

Mayor Jordan opened the public hearing at 6:33 PM. With no one to speak, the public hearing is closed at 6:34 p.m.

Council Member Gillenwater made a motion to approve Ordinance O-03-30 as presented. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

PLANNING & ZONING ITEMS

5. **Consider and take appropriate action on a site plan from TSKF II Ltd for development of four buildings for retail, restaurant and office development at 101 and 201 Kings Fort Parkway (across the street from Dickey's BBQ). The property is currently platted as Lots 1R-1 and Lot 2R-1, Block B, Kings Fort Addition, Phase 1. The two lot areas combined contain 2.394 acres. The lots are zoned Planned Development -14 for Commercial. (Case No. SP-01-20)**

Ms. Ratcliff presented the site plan for the four buildings for retail, restaurant, and office development. She gave a detailed overview of the property, proposed site plan, and future use of the property.

Council Member Gillenwater made a motion to approve a site plan from TSKF II Ltd for development of four buildings for retail, restaurant and office development at 101 and 201 Kings Fort Parkway. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

6. Consider and take appropriate action on a site plan from Jorge Diez for redevelopment of 208 S. Washington from a church family life center to a grocery store/restaurant (across the street from City Hall) and 208 S. Jackson for an accessory parking lot. The proposed grocery store/restaurant is platted as Lots 5, 6, 7, and 8, Block 22, Kaufman Original Addition. The parking lot is platted as Lots 6, 7, and 8, Block 21, Kaufman Original Addition. The properties are zoned Washington Street Corridor (WSC). (Case No. SP-02-20)

Ms. Ratcliff presented the site plan for the proposed grocery store at the location of the old First Baptist Fellowship Hall. She outlined the development and the parking requirements.

Council Member Gillenwater made a motion to approve a site plan from Jorge Diez for redevelopment of 208 S. Washington from a church family life center to a grocery store/restaurant and 208 S. Jackson for an accessory parking lot. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

DISCUSSION/ACTION ITEMS

7. Presentation By Yeldell, Wilson, Wood, & Reeve and the acceptance of the City of Kaufman Fiscal Year 2018-2019 Financial Audit Report; discussion of the same.

Danny Strunc presented the FY 18-19 Financial Audit Report. He reviewed the financial statements, the analysis, and the location of where to find specific information throughout the document.

Council Member Gillenwater made a motion to accept the City of Kaufman Fiscal Year 2018-2019 Financial Audit Report by Yeldell, Wilson, Wood, & Reeve as presented. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

8. Consider and take appropriate action on Ordinance O-02-20, an ordinance of the City Council of the City of Kaufman, Texas, amending the City's Personnel Policies Manual, adopted as Section 2-62, "Personnel Policies; Job Classification" of Article III, "Officers and Employees" of Chapter 2, "Administration" of the Code of Ordinances of the City by adopting a new Section 4.03, "Internships" and amending Section 4.01, "Categories" in order to include Paid and Unpaid Internships and to establish requirements and guidelines for departments utilizing Paid and Unpaid Interns and to incorporate the new section into the existing Personnel Policies Manual; and providing an effective date.

Mr. Holder informed Council at the last City Council Meeting Council received the draft internship program to be added to the personnel policy. He outlined the purpose to the addition.

Council Member Gillenwater made a motion to approve Ordinance O-02-20 as presented. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

9. Consider and take appropriate action on Ordinance O-04-20, an ordinance of the City Council of the City of Kaufman, Texas, ordering that the general election scheduled to be held on Saturday, May 2, 2020, be postponed to Tuesday, November 3, 2020; providing for the incorporation of premises; providing for postponement of the 2020 Kaufman General Election; providing for a cumulative clause; providing severability; and providing an effective date.

Mr. Slye informed Council due to COVID-19 the Governor allowed government bodies to postpone their elections until November 3, 2020.

Council Member Gillenwater made a motion to approve Ordinance O-04-20 as presented. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

10. Consider and take appropriate action on Ordinance O-05-20, an ordinance of the City Council of the City of Kaufman, Texas, approving and authorizing the execution and delivery of a "Water and Sewer Facilities Contract" with the Greater Texoma Utility Authority; and resolving other matter incident and related to the execution and delivery of such contract.

Mr. Slye stated this item is to finalize the relationship with GTUA to enter into a contract for planned improvements to the Wastewater Treatment Plant. He explained how the city would pay GTUA to allow them to service the debt that has been secured for this purpose.

Council Member Gillenwater made a motion to approve Ordinance O-05-20 as presented. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

11. Consider and take appropriate action on Ordinance O-06-20, an ordinance of the City Council of the City of Kaufman, Texas, relating to the issuance and sale of "Greater Texoma Utility Authority Contract Revenue Bonds, Series 2020 (City of Kaufman Project)", and approving the issuance thereof and the facilities to be constructed or acquired by the Authority

Mr. Slye informed Council the city has been approved to borrow $2.2 million dollars at a .23% return. He explained all purpose of the financial transaction and the details of the bond issuance.

Council Member Gillenwater made a motion to approve Ordinance O-06-20 as presented. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

12. Consider and take appropriate action regarding Ordinance No. O-07-20, an ordinance of the City Council of the City of Kaufman, Texas, amending Article III, "Officers and Employees" of Chapter 2, "Administration" of the Code of Ordinances by adding Section 2-63, "Signature Authority of the City Manager" to provide authority to the City Manager to contract for expenditures without further approval of Council for budgeted items not exceeding limits set by the Council; and providing an effective date.

Ms. Adams informed Council of the purpose of the ordinance which is to provide the City Manager the

signature authority for various expenditures as outlined in the Ordinance. Mr. Slye explained this will allow the city to run more efficiently but he would always bring any items to council's attention.

Council Member Gillenwater made a motion to approve Ordinance No. O-07-20 as presented. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

13. Consider and take appropriate action on Resolution R-11-20, a resolution of the City Council of the City of Kaufman, Texas, authorizing participation along with other Texas cities and other entities, in an intervention to the PUC Docket No. 46662 and SOAH Docket No. 473-17-4964.WS, which relates to the cost of services determination on the wholesale water rates imposed by the North Texas Municipal Water District.

Mr. Slye explained the resolution provides for the city's participation in the NTWMD Coalition intervention of the PUC case for the singular purpose of the subsequent Cost of Service study that has been ordered by the PUC. He stated this will provide the city a 'seat at the table' for future negotiations specifically related to the 'up-charge' of customer cities rates.

Council Member Gillenwater made a motion to approve Resolution R-11-20 as presented. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

14. Consider and take appropriate action on a review of the 5-year Capital Improvement Plan.

There was discussion about the priorities of the Council regarding the 5-year Capital Improvement Plan. Mr. Slye informed Council of his recommendations by applying for a loan through the Water Development Board.

Council Member Gillenwater made a motion to update the 5-year Capital Improvement Plan as discussed. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

15. Consider and take appropriate action on the amendment to the Potable Water Supply Contract with Oak Grove Water Supply Corporation.

Mr. Slye informed council the current wholesale water contract with Oak Grove Water Supply Corporation required an administrative change to increase the annual maximum amount of water the City of Kaufman would sell the Oak Grove to 77.6 million gallons per year in order to satisfy the TCEQ requirements of having the ability to provide 148 gallons per minute from their distribution system.

Council Member Charles Gillenwater made a motion to approve the amendment to the Potable Water Supply Contract with Oak Grove Water Supply Corporation as presented. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

APPOINTMENT

16. Consider and take appropriate action on the appointment of one (1) member to the Keep Kaufman Beautiful Board for a two (2) year term to expire March 2022 and the

Parks and Recreation Board for a two (2) year term to expire March 2022.

Mayor Jordan made a motion to appoint Jessica Bethurum to the Keep Kaufman Beautiful Board for a two (2) year term to expire March 2022 and the Parks and Recreation Board for a two (2) year term to expire March 2022. The motion was seconded by Mayor Pro-Tem Patterson and passed 7/0.

ANNOUNCEMENTS AND REPORTS FROM CITY MANAGER

17. Receive an update and discussion regarding the following:

a. Discussion Item Report (DIR)

b. STAR Transit Ridership Report- February 2020

c. Careflite Compliance Report- February 2020

d. NTMWD Coalition Update

e. Cancelled Events

Council Retreat- Thursday, April 2 at 12 PM & Friday, April 3 at 8 AM

Easter Event - Saturday, April 4

NEAT Neighborhoods - Saturday, April 18 - Area 5B

f. Monthly Calendars Attached

Mr. Slye gave an update on the above items.

ADJOURNMENT

With no further business, Mayor Jordan adjourned the meeting at 7:44 PM

JEFF JORDAN
MAYOR

ATTEST:

JESSIE HANKS

CITY SECRETARY

Meeting Date: 4/27/2020 **Date: 4/15/2020** **Item #: 3.** **Dept.: Public Works**

Action Item

SUBJECT:

Consider and take appropriate action on the ratification of a Professional Services Agreement with Freeman-Millican Inc. for the purpose of renewing TPDES Permit for the Wastewater Treatment Plant.

BACKGROUND:

This Professional Services Agreement provides for the Freeman-Millican Engineering firm to develop and submit our WWTP NPDES Permit renewal. Time was of the essence, so Mayor Jordan signed the agreement to get them started on the process on April 1, 2020. The purpose of this action is to ratify that action formally by City Council.

Author: Richard Underwood, Public Works Director

Reviewed: Mike Slye, City Manager

Cost: **Funds Available:** **Source:**

Recommendation: Staff recommends approval of the Professional Service Agreement.

Safe & Secure	Business Friendly/Economic Development	Partnership & Community Involvement	Healthy & Environmentally Cons. Comm.	Financial & OPS Stewardship
☐	☐	☐	☐	☐

PROFESSIONAL SERVICES AGREEMENT
KAUFMAN WWTP
TPDES PERMIT RENEWAL APPLICATION

STATE OF TEXAS **§**

COUNTY OF KAUFMAN **§**

This contract, (the "Contract" or "Agreement"), effective as of the _____ day of _____, 2020 (the "Effective Date"), is by and between the **City of Kaufman**, (the "CITY"), a Home Rule City, and **Freeman-Millican, Inc**. ("ENGINEER").

WITNESSETH

WHEREAS, the CITY desires to obtain professional engineering services related to the **preparation of the TPDES permit application for renewal of Permit WQ0012114001** (the "Activities"); and

WHEREAS, ENGINEER has a professional staff experienced and is qualified to provide professional engineering services related to Activities, and will provide the services, as defined below, for the price provided herein, said price stipulated by CITY and ENGINEER to be a fair and reasonable price; and

WHEREAS, the CITY desires to contract with ENGINEER to provide professional engineering services related to the Activities and ENGINEER desires to provide the Services defined below related to same.

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Contract, the CITY and ENGINEER hereby agree as follows:

ARTICLE I. TERM

The term of this Contract commences on the Effective Date and all services as defined below shall be completed by ENGINEER within 60 calendar days after the Effective Date.

ARTICLE II. SERVICES AND COMPENSATION

A. ENGINEER shall conduct all Activities as set forth on Exhibit "A" – Scope of Work and Exhibit "C", attached hereto and incorporated herein (the "Services").

B. ENGINEER shall receive as consideration to be paid for the performance of the Services set forth in Exhibit "B" - Compensation, attached hereto and incorporated herein (the "Compensation").

ARTICLE III. TERMINATION

A. General. CITY may terminate this Contract, for any reason or convenience, upon thirty (30) days written notice to ENGINEER. In the event this Agreement is so terminated, the CITY shall only pay ENGINEER for services actually performed by ENGINEER up to the date ENGINEER is deemed to have received notice of termination as provided herein. In the event of termination, ENGINEER shall provide CITY with copies of all documentation, plans, specifications and studies prepared by or for ENGINEER as part of the Services under this Contract performed up to the effective date of termination.

B. Termination and Remedies. In the event ENGINEER breaches any term and/or provision of this Contract the CITY shall be entitled to exercise any right or remedy available to it by this Contract, at law or equity, including without limitation, termination of this Contract and assertion of action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any other right or remedy and all other rights and remedies shall be cumulative.

ARTICLE IV. NON-ARBITRATION

The CITY reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the CITY shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this document, the former shall control.

ARTICLE V. REPRESENTATIONS AND WARRANTIES

A. Existence. ENGINEER is a corporation validly existing and in good standing under the laws of the State of Texas and is qualified to carry on its business in the State of Texas.

B. Corporate Power. ENGINEER has the corporate power to enter into and perform this Contract and all other activities contemplated hereby.

C. Authorization. Execution, delivery, and performance of this Contract and the activities contemplated hereby have been duly and validly authorized by all the requisite corporate action on the part of the ENGINEER. This Contract constitutes legal, valid, and binding obligations of the ENGINEER and is enforceable in accordance with the terms thereof.

D. Engineer. ENGINEER maintains a professional staff and employs, as needed, other qualified specialists experienced in providing the Services, and are familiar with all laws, rules, and regulations, both state and federal, including, without limitation the applicable laws, regarding the Activities contemplated hereby.

E. Performance. ENGINEER will and shall conduct all Activities contemplated by this Contract in accordance with the standard of care, skill and diligence normally provided by a professional person in performance of similar professional engineering services, and comply with all applicable laws, rules, and regulations, both state and federal, relating to professional engineering services, as contemplated hereby.

F. Use of Copyrighted Material. ENGINEER warrants that any materials provided by ENGINEER for use by CITY pursuant to this Contract shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other law, statute, rule, order, regulation or ordinance relating to the use or reproduction of materials. **ENGINEER shall be solely responsible for ensuring that any materials provided by ENGINEER pursuant to this Contract satisfy this requirement and ENGINEER agrees to indemnify and hold CITY harmless from all liability or loss caused to CITY or by to which CITY is exposed as a result of, or related to, or arising from materials provided by ENGINEER under this contract.**

ARTICLE VI. SCOPE OF WORK

ENGINEER shall accomplish the following:

Professional Engineering Services related to the **preparation of the TPDES permit application for renewal of Permit WQ0012114001** are defined in Exhibit "A" - "Scope of Work" and Exhibit "C".

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

ENGINEER and CITY agree that ENGINEER shall perform the duties under this Contract as an independent contractor and shall be considered as independent contractor under this Agreement and/or in its Activities and Services provided hereunder for all purposes. ENGINEER, in consultation with City,

has the sole discretion to determine the manner in which the Services are to be performed. During the performance of the Services under this Agreement, ENGINEER and ENGINEER's employees and/or subconsultants, will not be considered, for any purpose, employees or agents of the CITY within the meaning or the application of any federal, state or local law or regulation, including without limitation, laws, rules or regulations regarding or related to unemployment insurance, old age benefits, workers compensation, labor, personal injury or taxes of any kind.

ARTICLE VIII. INSURANCE

ENGINEER shall procure and carry, at its sole cost and expense through the life of this Agreement and for a period of at least five years following the termination or expiration of this Agreement, insurance protection as hereinafter specified, in form and substance satisfactory to CITY, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this Agreement, including without limitation, the indemnity obligations set forth herein. The requirements of this Section shall survive the termination or expiration of this Contract.

ENGINEER shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved subcontractor or subconsultant of ENGINEER to obtain and maintain in full force and effect during the term of this Agreement, commercial general liability, professional liability and automobile liability coverage for all owned, non-owned and hired vehicles with insurance carriers admitted to do business in the state of Texas. The insurance companies must carry a Best's Rating of A-VII or better. Except for Professional Liability, the policies will be written on an occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:	
Combined Single Limit:	$1,000,000
Professional Liability:	
Combined Single Limit:	$1,000,000
Automobile Liability:	
Combined Single Limit for any auto:	$1,000,000 Per Occurrence

ENGINEER shall further cause any approved subcontractor or subconsultant to procure and carry, during the term of this Agreement, Professional Liability coverage, as specified above for ENGINEER, protecting CITY against direct losses caused by the professional negligence of the approved subcontractor

or subconsultant and meeting the same requirements as set forth herein for insurance coverage to be provided by ENGINEER under this Section.

The CITY shall be listed as a primary additional insured with respect to the Automobile Liability and Commercial General Liability and shall be granted a waiver of subrogation under those policies. ENGINEER shall provide a Certificate of Insurance to the CITY as evidence of coverage. The Certificate shall provide 30 days written notice of cancellation. A copy of the additional insured endorsement and waiver of subrogation attached to the policy will be included in the Certificate. The additional insured endorsement shall include Products and Completed Operations.

ENGINEER shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code and in an amount meeting at least the minimum statutory limits of coverage. Further, ENGINEER shall maintain said coverage throughout the term of this Agreement and shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that the ENGINEER maintains said coverage. The ENGINEER may maintain Occupational Accident and Disability Insurance in lieu of Worker's Compensation in an amount meeting at least the statutory minimum requirements of coverage. In either event, the policy must be endorsed to include a waiver of subrogation in favor of the City of Kaufman.

If at any time during the life of the Agreement or any extension hereof, ENGINEER fails to maintain the required insurance in full force and effect, ENGINEER shall be in breach hereof and all work under the Agreement shall be discontinued immediately.

ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING

OF CONSULTANTS

ENGINEER may employ or retain consultants, contractors, or third parties (any of which are referred to herein as "Subconsultant"), to perform certain duties of ENGINEER, as set forth on Exhibit "A", attached hereto, under this Contract, provided that CITY approves the retaining of Subconsultants. ENGINEER is at all times responsible to CITY to perform the Services as provided in this Agreement and ENGINEER is in no event relieved of any obligation under this Contract upon retainage of any approved Subconsultant. Any agent and/or Subconsultant retained and/or employed by ENGINEER shall be required to carry, for the protection and benefit of the CITY and ENGINEER and naming said third parties as additional insureds, insurance as described above in this Contract.

ARTICLE X. CONFIDENTIALITY

ENGINEER shall retain all information received from or concerning the CITY and the CITY's business in strictest confidence and shall not reveal such information to third parties without prior written consent of the CITY, unless otherwise required by law.

ARTICLE XI. INDEMNITY

Having considered the potential liabilities that may exist during the performance of the Services, the benefits of the Project, and the ENGINEER's fee for the Services, and in consideration of the promises contained in this Agreement, ENGINEER agrees to provide the indemnities set forth herein.

ENGINEER SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD CITY AND CITY'S ELECTED OFFICIALS, OFFICERS, AGENTS, EMPLOYEES AND INDEPENDENT CONTRACTORS HARMLESS, TO THE FULLEST EXTENT PERMITTED BY LAW, FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS, LIABILITIES AND EXPENSES, AND INCLUDING REASONABLE ATTORNEY'S FEES, TO THE EXTENT CAUSED BY, RELATED TO, RESULTING FROM OR ARISING OUT OF ENGINEER'S NEGLIGENT ACTS, ERRORS, OR OMISSIONS.

THE INDEMNITY PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

ENGINEER shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the Activities under this Contract, and any amendments thereto.

ARTICLE XIII. NOTICE

A. General. Whenever notice from ENGINEER to CITY or CITY to ENGINEER is required or permitted by this Contract and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand (in which case such notice shall be effective upon delivery); (2) facsimile (in which case such notice shall be effective upon delivery); or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. Engineer's Address. ENGINEER's address and numbers for the purposes of notice:

Freeman-Millican, Inc.

Attn: Mark D. Hill, P.E.

12160 N. Abrams Road, Suite 508

Dallas, Texas 75243

Telephone: (214) 503-0555

C. City's Address. CITY's address and numbers for the purposes of notice:

City of Kaufman

Attn: Michael T. Slye, City Manager

City of Kaufman

P.O. Box 1168

Kaufman, TX 75142

D. Change of Address. Either party may change its address or numbers for purposes of notice by giving written notice to the other party as provided herein, referring specifically to this Contract, and setting forth such new address or numbers. The change of address or numbers shall become effective in accordance with the time periods set forth in Paragraph A of this Section.

ARTICLE XIV. CITY-PROVIDED DATA

CITY shall furnish ENGINEER non-confidential studies, reports and other available data in the possession of the CITY pertinent to ENGINEER's Services, so long as CITY is entitled to rely on such studies, reports and other data for the performance of ENGINEER's Services under this Contract (the "Provided Data"). ENGINEER shall be entitled to use and rely, so long as such reliance is reasonable, upon all such Provided Data.

ARTICLE XV. MISCELLANEOUS

A. Captions. The captions for the articles and sections in this Contract are inserted in this Contract strictly for the parties' convenience in identifying the provisions to this Contract and shall not be given any effect in construing this Contract.

B. Audit. ENGINEER shall provide access to its corporate books and records to the CITY. The CITY may audit, at its expense and during normal business hours, ENGINEER's books and records with respect to this Contract between ENGINEER and CITY.

C. Records. ENGINEER shall maintain records that are necessary to substantiate the services provided by ENGINEER.

D. Assignability. ENGINEER may not assign this Contract without the prior written approval of the CITY.

E. Successor and Assigns. This Contract binds and inures to the benefit of the CITY and ENGINEER, and in the case of CITY, its respective successors, legal representatives, and assigns, and in the case of ENGINEER, its permitted successors and assigns.

F. Construction and Venue. THIS CONTRACT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS CONTRACT IS PERFORMABLE IN KAUFMAN COUNTY, TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION OF THE STATE OF TEXAS, COUNTY OF KAUFMAN, FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS CONTRACT OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

G. Severability. If any provision of this Contract is ever held to be invalid or ineffective by any court of competent jurisdiction with respect to any person or circumstances, the remainder of this Contract and the application of such provision to persons and/or circumstances other than those with respect to which it is held invalid or ineffective shall not be affected thereby.

H. Amendment. No amendment, modification, or alteration of the terms of this Contract shall be binding unless such amendment, modification, or alteration is in writing, dated subsequent to this Contract, and duly authorized and executed by ENGINEER and CITY.

I. Entire Agreement. This Contract, including Exhibits “A,” and “B” attached hereto, contains the entire Contract between the CITY and ENGINEER, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

J. No Joint Enterprise. Nothing contained herein shall be construed to imply a joint venture, joint enterprise, partnership or principal – agent relationship between ENGINEER and the CITY.

K. Documents Owned by CITY. Any and all documents, drawings and specifications prepared by ENGINEER as part of the Services hereunder, shall become the property of the CITY when ENGINEER has been compensated as set forth in Article II, above. The ENGINEER shall make copies of any and all work products for its files.

L. Notice of Waiver. A waiver by either CITY or ENGINEER of a breach of this Agreement must be in writing to be effective. In the event either party shall execute and deliver such waiver, such waiver shall not affect the waiving party's rights with respect to any other or subsequent breach.

M. Third Party Activities. Nothing in this Agreement shall be construed to provide any rights or benefits whatsoever to any party other than CITY and ENGINEER.

EXECUTED as of the Effective Date hereof.

CITY OF KAUFMAN

By: _____

_____
Printed Name, Title

FREEMAN-MILLICAN, INC.

By: Mark D. Hill, PE

Mark D. Hill, P.E., Project Manager
Printed Name, Title

EXHIBIT "A"
SCOPE OF WORK

FREEMAN-MILLICAN, INC. (FMI) shall provide engineering services required to prepare a TPDES renewal permit application for the Kaufman Wastewater Treatment Plant (WWTP), permit WQ0012114001. The renewal permit will be for the same flows and water quality as the current permit. The proposed improvements for the current plant project will be incorporated into the permit application.

SCOPE OF WORK

I. BASIC SERVICES

1. Prepare a TPDES Permit Application and submit to the TCEQ for review. This will include attachments, forms, etc. that are required. The Client will be required to provide some information for use in the permit application.

2. Renewal Applications for facilities greater than 1.0 MGD generally consist of:

   A. Administrative Report 1.0
      a) USGS Topographic Map Exhibit
   B. Supplemental Permit Information Form (SPIF)
      a) USGS Topographic Map
   C. Domestic Technical Report 1.0
      a) Treatment Process
      b) Treatment Units description
      c) Process flow diagram
      d) Site Drawing
   D. Domestic Worksheet 2.0 (Receiving Waters)
   E. Domestic Worksheet 4.0 (Pollutant Analysis)
   F. Domestic Worksheet 5.0 (WET Testing)
   G. Domestic Worksheet 6.0 (Industrial Waste Contribution)

3. Provide Client two (2) complete copies of the permit application for review and for locating in public location for public review as required by TCEQ.

4. Submit permit application to TCEQ for approval.

5. Provide supplemental information requested by TCEQ, as applicable.

6. Assist Client in preparing notices for publication. **Publication in local newspapers, in both English and Spanish, shall be the responsibility of the Client**. There will be two (2) required publications.

7. Review Draft Permit and make recommendation to the Client for modifications and/or acceptance.

II. ADDITIONAL SERVICES

1. See Exhibit "C" below.

EXHIBIT "B"
COMPENSATION

1. Compensation for Basic Engineering Services shall be a lump sum as follows:

Task	*Fee*	*Terms*
TPDES Permit Application (Renewal)	***$ 11,160.00***	***Due upon submission to TCEQ***
	$ 1,240.00	***Due upon receipt of Draft Permit***

Lump sum fee includes expenses related to employee travel and mileage, reprographics, courier expenses, business conferences, etc. directly related to the scope of services provided.

2. Compensation for Additional Services (Exhibit "C") shall be as follows:

Additional services shall be reimbursed on a mutually agreeable lump sum or on an hourly basis. No additional services shall be performed without a written authorization to proceed by the Client.

Labor charges for Additional Services shall be billed at $165 per hour.

Reimbursable expenses related to employee travel and mileage, airfare, car rental, hotel, reprographics, courier expenses, business conferences, etc. shall be reimbursed at cost plus ten percent (10%).

EXHIBIT "C"

ADDITIONAL SERVICES

Any items requested not outlined in this Scope will be considered additional services and will be provided upon a written request as authorized by the Client.

FMI will be available to assist the Client with determining the justification for this permit renewal. This could include attendance at meetings, review of documents or other matters that could impact the permit renewal process. These services shall be provided at an hourly rate of $165 plus expenses.

Any services required to address a protested permit application shall be considered Additional Services.

CLARIFICATIONS AND ASSUMPTIONS

All items included in the Scope of Services herein are subject to the following conditions:

A. This Scope of Work and Fee do not include any survey work.

B. The average capacity for the permit term will be greater than 1.0 MGD.

C. The facility will NOT include land disposal of effluent, subsurface irrigation or subsurface disposal.

D. Scope of work does not include support for meetings, such as stakeholder meetings, workgroup meetings, citizen information meetings or public meetings.

E. The Owner will pay the required application fee directly to the TCEQ. A copy of the check will be provided to FMI for inclusion in the permit application.

F. Testifying in hearings and providing information that may be requested by TCEQ and/or Client for protested permits will be provided on an hourly basis as an Additional Service.

G. Negotiations with adjacent or downstream owners, municipalities or other governmental entities will be performed by others.

H. Publication in local newspapers, in both English and Spanish (if required), shall be the responsibility of the Client. Two (2) separate publications are required.

Meeting Date: 4/27/2020 **Date: 4/16/2020** **Item #: 4.** **Dept.: Public Works**

Resolution

SUBJECT:

Consider and take appropriate action on Resolution R-14-20, a resolution of the City of Kaufman, Texas, accepting the public improvements of the Stormwater Holding Basin project at the Wastewater Treatment Plant.

BACKGROUND:

This resolution is for the acceptance on all public utility improvements made by 7-H Construction Company, Inc. for the Stormwater Holding Basin at the Wastewater Treatment Plant.

Resolution R-14-20 and the acceptance letter are attached.

Author: Richard Underwood, Public Works Director

Reviewed: Mike Slye, City Manager

Cost: N/A **Funds Available:** N/A **Source:** N/A

Recommendation: Staff recommends approval of Resolution R-14-20

Safe & Secure	Business Friendly/Economic Development	Partnership & Community Involvement	Healthy & Environmentally Cons. Comm.	Financial & OPS Stewardship
☐	☐	☐	☒	☐

RESOLUTION NO. R-14-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KAUFMAN, TEXAS ACCEPTING PUBLIC IMPROVEMENTS FOR THE KAUFMAN STORMWATER HOLDING BASIN IMPROVEMENT PROJECT FOR THE WASTEWATER TREATMENT PLANT; ESTABLISHING THE WARRANTY PERIOD FOR THE PUBLIC IMPROVEMENTS; PROVIDING FOR THE INCORPORATION OF PREMISES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City and 7-H Construction Company, Inc., ("Contractor"), entered into an agreement dated August 26, 2019 (the "Agreement"), pursuant to which Contractor was to construct certain public improvements for the Wastewater Treatment Plant, (the "Public Improvements"); and

WHEREAS, Contractor has constructed all required Public Improvements and City Council accepts the actual quantities and construction of said Public Improvements pursuant to final estimate; and

WHEREAS, having accepted the Public Improvements via the adoption of this Resolution, the City Council hereby establishes that the two (2) year warranty period for said Public Improvements commences as of the date of this Resolution; and

WHEREAS, a two (2) year maintenance bond covering the Public Improvements has been received by the City.

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

SECTION 1. That the foregoing recitals are true and correct and are incorporated herein.

SECTION 2. That effective as of the date of this Resolution, the City accepts the Public Improvements as approved by final inspection of City of Kaufman Public Works Department.

SECTION 3. That the City establishes the warranty period to be in effect commencing on April 27, 2020, the effective date of this Resolution, and remaining in full force and effect until April 27, 2022, at 12:00 a.m., midnight (24 months from the effective date of this Resolution). Further, pursuant to the terms of the Agreement, the City has received a maintenance bond that shall remain in effect throughout the warranty period established herein and shall guarantee repairs to the Public Improvements occuring within the warranting period.

PASSED AND APPROVED this 27th day of April, 2020.

_____
JEFF JORDAN
MAYOR

ATTEST:

_____
JESSIE HANKS
CITY SECRETARY

APPROVED AS TO FORM:

_____
PATRICIA A. ADAMS
CITY ATTORNEY

FREEMAN-MILLICAN, INC.
ENGINEERS - ARCHITECTS - PLANNERS

VICTOR L. ACUY, P.E.
RICHARD A. DORMIER, P.E.
JOHN D. GATTIS, A.I.A.
MARK D. HILL, P.E.
DAMIR LULO, P.E.
MICHAEL K. STACEY, P.E.
LARRY J. FREEMAN, P.E.

March 23, 2020

Mr. Mike Slye
City Manager
City of Kaufman
P. O. Box 1168
Kaufman, Texas 75142

Re: Recommendation of Acceptance & Final Payment
Kaufman Water System Improvements
Project 2 – Stormwater Holding Basin Wall Extension (SEP Project)

Dear Mr. Slye:

The above referenced project has been completed and placed into service.

Attached are the Pay Application #3 & Final, Contractor's Surety Release, and Affidavit of Bills Paid. "As-Built" drawings have been provided to our office.

We recommend acceptance of the project and payment of the final amount of $14,210.00 per attached Pay Application #3 & Final.

The warranty period for this project is two (2) years from the date of final acceptance of the work.

Please contact us if you may have any questions or comments regarding this recommendation.

Sincerely,
Freeman-Millican, Inc.

Mark D. Hill, PE

Project Manager

Attachments

F:\19018 - KAUFMAN WWTP Improvements\7 - Construction\Proj 2 - SEP Wall\Recommend Acceptance.docx

CONSENT OF
SURETY COMPANY
TO FINAL PAYMENT

PROJECT: #2 - Stormwater Holding Basin Wall Extension

CONTRACT DATE: August 26, 2019

OWNER: City of Kaufman

CONTRACTOR: 7-H Construction Company, Inc.

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the (here insert name and address of Surety Company)

SureTec Insurance Co,
5905 Legacy Drive, Suite 400
Plano TX 75024

, SURETY COMPANY,

on Bond of (here insert name and address of Contractor

7-H Construction Company, Inc. CONTRACTOR 3801 Arlington Ave. Tyler TX 75701

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety Company of any of its obligations to (here insert name of Owner)

City of Kaufman, TX , OWNER, 209 S. Washington, Kaufman TX 75

as set for in the said Surety Company's Bond No. 5274721, dated Sept. 13, 2019

IN WITNESS WHEREOF,
the Surety Company has hereunto set its hand this 23 day of March 2020

SureTec Insurance Co.
Surety Company

Signature of Authorized Representative

attorney-in-fact
Title

Attest

(SEAL)

CONTRACTOR'S FINAL PAYMENT AFFIDAVIT

STATE OF TEXAS

COUNTY OF SMITH

BEFORE ME, THE UNDERSIGNED AUTHORITY, on this day personally appeared Camille M. Ross, who being duly sworn, on oath, says that she is a duly authorized representative of 7-H Construction Company, Inc., the Contractor, in a construction contract dated August 26, 2019, entered into between the Contractor and City of Kaufman, Texas, the Owner, for the construction of Project 2 – Stormwater Holding Basin Wall Extension and that she is authorized to and does make this affidavit on behalf of said Contractor in order to induce the Owner to make final payment to the Contractor, in accordance with the provisions of the said construction contract.

Affiant further says that all persons who have furnished labor in connection with said construction, have been paid in full at hourly wage rates not less than those, if any, set forth in the contract; that all manufacturers, suppliers and sub-contractors that furnished any material and/or services under the contract, have been paid or will be paid or otherwise satisfied within thirty days after receipt of Final Payment from the Owner. Payments not made in full at the time of this affidavit are listed below.

FINAL PAYMENTS pending as of this date hereof are: __X__None Pending ____As Listed Below

Individual or Co. Name	Mailing Address	Amount Owed

Camille M Ross President

Signature and Title

Sworn and Subscribed before me this ___23rd_ day of March, 2020.

Notary Public in and for Smith County, State of Texas

SHAY MACPHERSON
Notary Public
STATE OF TEXAS
ID#13165670-5
My Comm. Exp. July. 25, 2022

7-H Construction Company, Inc.
3801 Arlington Ave.
Tyler, TX 75701
903-597-8200

PARTIAL PAYMENT REQUEST

Pay Request No. 3-Retainage **From:** 3/18/2020 **To:** 3/18/2020
Name of Owner: City of Kaufman, TX
Owner's Address: 209 S. Washington, Kaufman, TX 75142
Engineer: Freeman-Millican, Inc. Mark Hill, P.E.
Engineer's Address: 12160 Abrams Rd, Suite 508, Dallas, TX 75243
Project Name: Wastewater System Improvements Project 2 - Stormwater Holding Basin Wall Extension
Contract Price (Including Change Orders): $140000 + $2,100.00 = $142,100.00

Item No.	Description of Item	Original Bid Quantity	Original Bid Unit	Original Bid Unit Price	Quantity Completed This Month	Total Quantity Completed	Total Value Completed
	PROJECT 2						
WW.1	6' Concrete Wall Extension	1	LS	80,000.00	0.00	1.00	80,000.00
WW.5	Aluminum Access Stairs, Platform and Ladder	1	LS	60,000.00	0.00	1.00	60,000.00
CO 1	Extend overflow pipe	1	LS	2,100.00	0.00	1.00	2,100.00
	TOTALS						**$142,100.00**

Completed to Date:	**$142,100.00**
Stored Material:	**$0.00**
Completed and Stored to Date:	**$142,100.00**
Less 10% Retainage:	**$0.00**
Less Previous Payments:	**$127,890.00**
Amount Due This Application:	**$14,210.00**

Contractor certifies that to the best of its knowledge: 1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; 3) title of all Work materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and 3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Engineer Signature and Date: Mark D. Hill, PE 23 MAR 20

Owner Signature and Date: _____

Contractor Signature and Date: Camille M Ross March 20, 2020

On-Site Observer Signature and Date: _____

Meeting Date: 4/27/2020 **Date: 4/16/2020** **Item #: 5.** **Dept.: Administration**

Presentation

SUBJECT:

Presentation and discussion of the City of Kaufman's Midyear Financial Review

BACKGROUND:

The Finance Director will present a mid-year review of the current budget. The review will include expenditures and revenue by fund.

Author:
Mike Holder, Assistant City Manager

Reviewed:
Mike Slye, City Manager

Cost: N/A **Funds Available:** N/A **Source:** N/A

Recommendation: N/A

Safe & Secure	Business Friendly/Economic Development	Partnership & Community Involvement	Healthy & Environmentally Cons. Comm.	Financial & OPS Stewardship
☐	☐	☐	☐	☒

Meeting Date: 4/27/2020 | **Date: 4/24/2020** | **Item #: 6.** | **Dept.: Administration**

Action Item

SUBJECT:

Consider and take appropriate action on the amendment of the City Council of the City of Kaufman, Texas Declaration of Local Disaster for Public Health Emergency and Order.

BACKGROUND:

This items is to amend the Declaration of Local Disaster for Public Health Emergency and Order that was approved by Council on March 16th. Staff is recommending the City follow the Governor's executive orders regarding COVID-19 as they are put in place.

Author: Jessie Hanks, City Secretary

Reviewed: Mike Slye, City Manager

Cost: N/A **Funds Available:** N/A **Source:** N/A

Recommendation: Staff recommends approval of the amendment.

Safe & Secure	Business Friendly/Economic Development	Partnership & Community Involvement	Healthy & Environmentally Cons. Comm.	Financial & OPS Stewardship
X		X	X	

AMENDED CITY OF KAUFMAN, TEXAS
MAYORAL DECLARATION EXTENDING
LOCAL STATE OF DISASTER
DUE TO PUBLIC HEALTH EMERGENCY

WHEREAS, beginning in December 2019, a novel Coronavirus, now designated "COVID-19", has spread throughout the world and has now been declared a global pandemic by the World Health Organization; and

WHEREAS, symptoms of COVID-19 include fever, coughing, and shortness of breath and, in some cases, the virus has caused death; and

WHEREAS, the Mayor of Kaufman serves as the Director of the Office of Emergency Management and has designated the Kaufman Fire Chief, Ronnie Davis, as the coordinator and delegated to the coordinator the authority for execution of his duties and responsibilities as set forth in Article II, "Emergency Management", of the Code of Ordinances of the City of Kaufman, Texas ("Article II"); and

WHEREAS, on March 13, 2020, Texas Governor Greg Abbott declared a statewide public health disaster; and

WHEREAS, on March 17, 2020, the City of Kaufman City Council adopted the "City Council of the City of Kaufman, Texas Declaration of Local Disaster for Public Health Emergency and Order", (hereinafter "March 17, 2020 Council Order") a copy of which is attached hereto and incorporated herein as Exhibit "A"; and

WHEREAS, on March 18, 2020, Kaufman County Judge Hal Richards issued a Declaration of Local Disaster for Public Health Emergency declaring a countywide public health disaster; and

WHEREAS, since the March 13, 2020 Order (GA-08), Governor Abbott has issued additional Executive Orders relating to COVID-19 preparedness and implantation of mitigating actions and guidelines; and

WHEREAS, on March 31, 2020, Texas Governor Greg Abbott issued Executive Order GA-14, effective April 2, 2020, extending the statewide public health disaster to April 30, 2020 and ordering, among other things, stay-at-home measures for any person, or entity, not categorized by the order as Essential Services; and

WHEREAS, thereafter, Texas Governor Greg Abbott issued Executive Orders GA-15, 16, 17, and 18 relating to the safe and strategic opening of select services, hospital capacity, and personal protective equipment; and

WHEREAS, in order to be consistent with other state and local directives issued by Governor Abbott and Kaufman County, the City Council has determined it necessary to amend the March 17, 2020 Council Order as set forth in this "Amended City Council

of the City of Kaufman, Texas Declaration of Local Disaster for Public Health Emergency and Order", (hereinafter "April 27, 2020 Amended Council Order"); and

WHEREAS, this April 27, 2020 Amended Council Order shall take effect at 12:01 a.m. on April 28, 2020 and shall remain in effect until the Mayor declares the emergency terminated or other applicable state or local orders or directives are issued, at which time the Mayor shall have the authority to suspend any one or more of the provisions of this April 27, 2020 Amended Order; and

WHEREAS, the Council has determined that this April 27, 2020 Amended Council Order is necessary for the public health, safety and welfare of the citizens of Kaufman, Texas.

NOW, THEREFORE, BE IT DECLARED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF KAUFMAN, TEXAS THAT:

SECTION 1. Incorporation of Premises.

1.01. Recitals. The premises set forth above are the stated findings of the City Council of the City of Kaufman, serve as the basis for and are incorporated into this Declaration as if written word for word.

1.02. Mayoral Proclamation and City Council Order. The Mayoral Proclamation of Mayor Jeff Jordan is incorporated herein by reference and the City Council of the City of Kaufman, Texas Declaration of Local Disaster for Public Health Emergency and Order" adopted on March 17, 2020, (hereinafter "March 17, 2020 Council Order"), is incorporated herein and attached hereby as Exhibit "A" and shall be automatically amended in accordance with this April 27, 2020 Amended Council Order, and all provisions of the March 17, 2020 Council Order not expressly amended hereby shall remain in full force and effect.

1.03. Executive Orders of Governor Abbott. All Executive Orders issued by Governor Abbott since the adoption of the March 27, 2020 Council Order and that are issued subsequent to the date of adoption of this April 27, 2020 Amended Council Order shall automatically amend this April 27, 2020 Amended Council Order as required by law and/or such Order.

1.04. The Kaufman County Disaster Declaration and Executive Order. All Declarations and Orders of Kaufman County Judge, that are issued subsequent to the date of adoption of this April 27, 2020 Amended Council Order shall automatically amend this April 27, 2020 Amended Council Order as required by law and/or such Order.

SECTION 2. **Amendment.**

The City Council of the City of Kaufman, Texas Declaration of Local Disaster for Public

Health Emergency and Order dated March 17, 2020, (hereinafter "March 17, 2020 Council Order") is hereby amended by this Order The City of Kaufman Emergency Management Director, Mayor, Jeff Jordan, is hereby authorized by the City Council to issue such directives and orders as allowed by state law, Kaufman Code of Ordinances, City Charter, order of the Governor or order of the County Judge to amend, revoke or modify any provision of the March 17, 2020 Council Order to maintain consistency with federal, state or local directives or mandates related to COVID-19. This April 27, 2020 Amended Council Order shall remain in effect until repealed by the Kaufman City Council.

SECTION 3. **Publication.**

Pursuant to applicable law, this amendment to the City Council of the City of Kaufman, Texas Declaration of Local Disaster for Public Health Emergency and Order dated March 17, 2020 shall be given prompt and general publicity and shall be filed promptly with the City Secretary.

SECTION 4. Severability.

If any subsection, sentence, clause, phrase, or word of this Ordinance or application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions of applications of this Ordinance. This Ordinance approves and ratifies all actions taken in response to COVID-19 prior to its adoption.

SECTION 5. **Continuation and Effective Date.**

The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the state of emergency. This Ordinance shall become effective immediately at 12:01 a.m. on April 28, 2020.

SO DECLARED AND ORDERED this 27th day of April, 2020.

_____

Jeff Jordan, Mayor

Exhibit "A"

City Council of the City of Kaufman, Texas Declaration of Local Disaster for Public Health Emergency and Order dated March 17, 2020

Tax Incentive Programs for Downtown Properties

As a way of encouraging the continued revitalization, rehabilitation and structural maintenance of Kaufman's historic downtown, the City of Kaufman offers ***tax incentives*** that are available to owners of property located within the boundaries of the Downtown District: (The District is defined as the Kaufman Square and the adjacent one block area.)

- ***Five-year Property Tax Refund***. In return for significant capital investment to improve properties located within the Downtown District, property owners are eligible to receive, upon approval by the City Council, a refund of **75% of the base year assessed ad valorem property tax, a refund based upon the Incremental Growth of the property or a negotiated amount that meets the established limits set by the City Council**. **Improvements include**; the rehabilitation or reconstruction of an existing commercial structure, the establishment of a new commercial business within the District that remains for a period of at least three (3) years and/or constructs a new building that meets the historic nature and feel of the area and has an ad valorem value of at least $150,000.
- Applications for a Five-Year Tax Incentive must be submitted to the Development Services Director, who is located at 209 S. Washington Street.
- Eligible real property and property owner must be current with all ad valorem property taxes to be eligible for incentives.
- The estimated cost of the rehabilitation or reconstruction project shall equal or exceed $50,000. This includes interior finishes and/or build out that will remain with the property. New construction must be equal to or exceed $150,000.
- The investments eligible shall be investments made for new construction, structural repairs and improvements, electrical repairs and improvements, plumbing repairs and improvements, mechanical repairs and improvements, interior repairs and improvements, and/or exterior improvements or restoration made to the physical structure. Taxes incurred for investment in personal property shall not be eligible for incentive.
- A pre-development meeting will be hosted by City staff and will include Development Services, Engineering, Economic Development and Fire Department, in addition to the property owner.
- Any exterior modification to the property will meet the historic nature and feel of the downtown area and be in compliance with the Downtown Overlay Design Guidelines and recommended for approval to the City Council by the Downtown Advisory Board.
- The applicant must secure all City permits and must secure periodic inspection to insure proper completion of the project. City of Kaufman Development Services is the central point of contact for permitting information.
- Following the submission by the property owner of the Application for Tax Incentive and approval by the City Council, the determined refund amount shall be paid each year for a period of five (5) years as long as all other qualifications continue to be met.
- Once a property owner has received a tax incentive under this ordinance, the property must be on the tax roll at full value for a minimum of 10 years before that property is eligible for a similar tax incentive again. A new commercial business must remain at the location for a period of three (3) years or the incentive will cease upon vacating or closing.
- **Economic Development Grants** are also available for some improvements. If an applicant for Tax Incentives secures one or more of the Economic Development Grants, the amount granted will be added to the minimum $50,000 of required improvements. (Grant money will not count toward improvement value.)

- The tax incentive, if approved will not become effective until the first certified appraisal by the Kaufman County Appraisal District after the completion of work is issued.
- As an alternative, if the anticipated sales tax revenue of a new commercial business is larger than the anticipated property tax incentive through this program, the owner may be eligible for a **sales tax reimbursement.** If the owner chooses to seek sales tax reimbursement, the owner will do so through a negotiated 380 Agreement with the City of Kaufman.
- The completed **Downtown District Tax Incentive Application** must be **submitted to the Development Services Director,** who will coordinate the process and submit to the City Council for approval.
- **Completed applications**, along with a copy of the **tax statement or receipt**, and **invoices for work performed** marked "Paid in Full" or canceled checks totaling the full amount applicable to the specific work performed, **must be submitted to the Development Services Director no later than December 31** of the year for which the tax incentive is to be granted.
- Participation in this program does not disqualify an applicant from seeking other allowable and appropriate Economic Development Incentives.

DOWNTOWN DEVELOPMENT INCENTIVE PROGRAM

City of Kaufman

DOWNTOWN DEVELOPMENT INCENTIVE PROGRAM

Purpose:

- **To encourage the continued revitalization, rehabilitation and structural maintenance of Kaufman's historic downtown district. (Defined as the Kaufman Square and the adjacent one block area.)**

Program:

- **Provide a tax refund to owners who invest significant capital to rehabilitate or reconstruct an existing commercial structure, establish a new commercial business and/or constructs a new building.**

Specifics:

- **Cost of rehabilitation or reconstruction project shall equal or exceed $50,000. This includes interior finishes and/or build out that will remain with the property.**
- **Constructs a new building that meets the historic nature and feel of the area and has a value of at least $150,000.**
- **If an applicant for Tax Incentives secures one or more of the available Economic Development Grants, the amount granted will be added to the minimum $50,000 of required improvements.**
- **Eligible improvements include; new construction, structural repairs and improvements, electrical repairs and improvements, plumbing repairs and improvements, mechanical repairs and improvements, interior repairs and improvements, and/or exterior improvements or restoration made to the physical structure.**

DOWNTOWN DEVELOPMENT INCENTIVE PROGRAM

Process:

- **Pre-Development meeting with City Staff to determine project scope and program eligibility.**
- **Submit Incentive Program Application for approval by the City Council. (City will also ask the County to participate.) If appropriate, the City will negotiate a 380 Agreement for City Council approval.**
- **Secure all City required permits and inspections.**
- **Remain current on all taxes, permits and fees.**

Incentives:

- **Following approvals, 75% of the base year amount of the appraised value of the structure shall be refunded for a period of 5 years. (Base year amount will be the last assessed tax value prior to the approved work being completed, as determined by the KCCAD.)**
- **As additional alternatives, the City Council could authorize utilizing the Incremental Growth to determine the refund amount, allow a negotiated amount within specific limits; or if the anticipated sales tax revenue of a new commercial business is larger than the anticipated property tax incentive through this program, allow for a sales tax reimbursement.**
- **Participation in this program does not disqualify an applicant from seeking other allowable and appropriate Economic Development Incentives. Any incentive agreement would be presented to the City Council for approval.**

KAUFMAN EXAMPLES (OPTION 1)

YEAR	2020 TAXABLE VALUE	IMPROVEMENTS	NEW VALUE	ORGANIC GROWTH 3%	TAX REFUND 75% OF BASE YEAR	TOTAL TAX BURDEN	TOTAL TAX LESS REFUND
2020	$ 60,000	$ 150,000	$ 210,000	$ 216,300		$ 1,817	$ 1,817
2021	$ 216,300			$ 222,789	$ (378)	$ 1,871	$ 1,493
2022	$ 222,789			$ 229,473	$ (378)	$ 1,928	$ 1,550
2023	$ 229,473			$ 236,357	$ (378)	$ 1,985	$ 1,607
2024	$ 236,357			$ 243,448	$ (378)	$ 2,045	$ 1,667
2025	$ 243,448			$ 250,751	$ (378)	$ 2,106	$ 1,728
		TOTAL			$ (1,890)	$ 11,753	$ 9,863

KAUFMAN EXAMPLES (OPTION 2)

Option 2 would provide the applicant the opportunity to seek a refund of 100% of the Incremental Property Tax growth (M&O only).

YEAR	2020 TAXABLE VALUE	IMPROVEMENTS	NEW VALUE	ORGANIC GROWTH 3%	TAX REFUND 100% OF INCREMENT	TOTAL TAX BURDEN	TOTAL TAX LESS REFUND
2020	$ 60,000	$ 150,000	$ 210,000	$ 216,300		$ 1,817	$ 1,817
2021	$ 216,300			$ 222,789	$ (856)	$ 1,871	$ 1,015
2022	$ 222,789			$ 229,473	$ (892)	$ 1,928	$ 1,036
2023	$ 229,473			$ 236,357	$ (929)	$ 1,985	$ 1,057
2024	$ 236,357			$ 243,448	$ (966)	$ 2,045	$ 1,079
2025	$ 243,448			$ 250,751	$ (1,005)	$ 2,106	$ 1,101
			TOTAL		$ (4,648)	$ 11,753	$ 7,104

Meeting Date: 4/27/2020 | **Date: 4/15/2020** | **Item #: 8.** | **Dept.: Administration**

Action Item

SUBJECT:

First Reading: Consider and take appropriate action on Ordinance O-08-20, an ordinance of the City of Kaufman, Texas, granting to Trinity Valley Electric Cooperative, Inc., its successors and assigns ("Grantee"), an extension of non-exclusive electric utility franchise Ordinance No. O-11-10, to authorize the non-exclusive right, privilege, and franchise for a term of five (5) years, subject to one (1) extension of five years, to erect, maintain, and operate an electric power utility system in the City of Kaufman, Texas to Grantee in accordance with the terms set forth in the Ordinance, such terms constituting a Franchise Agreement; to authorize Grantee to erect, maintain, and operate its facilities in, over, under, along, and across the present and future public rights-of-way in the city; prescribing compensation for the rights, privileges, and franchise conferred hereunder; prescribing the conditions governing the operation of Grantee's business insofar as it affects the use of public property for the purpose of such business installation, upgrade, maintenance, and operation of Grantee's electric utility system and business; incorporating City's Right to Regulation as set forth in Article X, Utility and Public Service Franchises and Licenses, of the City's Home Rule Charter; containing other provisions relating to the subject; providing for severability; and providing an effective date.

BACKGROUND:

The current TVEC franchise agreement will expire in June 2020. This ordinance will effectively put into place a new franchise agreement for the next 10 years (two five-year increments) utilizing the same terms of the current agreement. TVEC will pay the city 4% of their gross receipts to access the city's ROW and provide electric services. The city charter maximizes the terms of a franchise agreement at 20 years. This proposed non-exclusive franchise agreement, if approved, will expire in 2030.

Author:
Jessie Hanks, City Secretary

Reviewed:
Mike Slye, City Manager

Cost: N/A **Funds Available:** N/A **Source:** N/A

Recommendation: Staff recommends approval of Ordinance O-08-20 as presented.

Safe & Secure	Business Friendly/Economic Development	Partnership & Community Involvement	Healthy & Environmentally Cons. Comm.	Financial & OPS Stewardship
X		X		X

CITY OF KAUFMAN, TEXAS

ORDINANCE NO. O-08-20

AN ORDINANCE OF THE CITY OF KAUFMAN, TEXAS, AUTHORIZING EXTENSION WITH OF THE ELECTRIC UTILITY FRANCHISE PREVIOUSLY GRANTED TO TRINITY VALLEY ELECTRIC COOPERATIVE, INC., ITS SUCCESSORS AND ASSIGNS ("GRANTEE") THROUGH ORDINANCE NO. O-11-10, BY GRANTING THE NON-EXCLUSIVE RIGHT, PRIVILEGE, AND FRANCHISE FOR A TERM OF FIVE (5) YEARS, SUBJECT TO ONE (1) ADDITIONAL FIVE (5) YEAR EXTENSION, TO ERECT, MAINTAIN, AND OPERATE AN ELECTRIC POWER UTILITY SYSTEM IN THE CITY OF KAUFMAN, TEXAS; TO ERECT, MAINTAIN, AND OPERATE ITS FACILITIES IN, OVER, UNDER, ALONG, AND ACROSS THE PRESENT AND FUTURE PUBLIC RIGHTS-OF-WAY IN THE CITY; PRESCRIBING COMPENSATION FOR THE RIGHTS, PRIVILEGES, AND FRANCHISE CONFERRED HEREUNDER; PRESCRIBING THE CONDITIONS GOVERNING THE OPERATION OF THE BUSINESS INSOFAR AS IT AFFECTS THE USE OF PUBLIC PROPERTY FOR THE PURPOSE OF SUCH BUSINESS INSTALLATION, UPGRADE, MAINTENANCE, AND OPERATION OF SAID SYSTEM AND BUSINESS; INCORPORATING BY REFERENCE ALL CITY RIGHTS TO REGULATIONS PURSUANT TO ARTICLE X, "UTILITY AND PUBLIC SERVICE FRANCHISES AND LICENSES" OF THE CITY'S HOME RULE CHARTER; CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FOR SEVERABILITY; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR TWO READINGS AS REQUIRED BY THE CITY'S HOME RULE CHARTER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Texas statutes provide that the City of Kaufman, Texas ("City") has exclusive dominion, control and jurisdiction over its public rights-of-way; and

WHEREAS, the City is authorized to enter into non-exclusive franchise agreements for utility services within the City limits and to require compensation to be paid to the City; and

WHEREAS, pursuant to Ordinance No. O-11-10 of the City of Kaufman, Texas adopted in June of 2010, Trinity Valley Electric Coop ("Grantee") was granted a non-exclusive franchise to operate an electric power utility within the City; and

WHEREAS, TVEC has requested that its current franchise be extended so that it may continue to provide electric service and operate within the City; and

WHEREAS, the City has reviewed those services provided by TVEC and has determined it appropriate and in the best interest of the City and its citizens that the

franchise previously granted to TVEC be extended in accordance with the terms of this Ordinance and the agreement approved hereby ("Ordinance, "Franchise", "Franchise Agreement" or "Agreement:"); and

WHEREAS, pursuant to Article X, "Utility and Public Service Franchises and Licenses" of the City of Kaufman Home Rule Charter, this ordinance extending the Franchise Agreement has been read at two (2) separate meetings of the City Council, within fifteen (15) days of the first reading of this Ordinance (May 12, 2020), a summary of its provisions was published in the official newspaper of the City at the expenses of the VTEC, and this Ordinance and the Franchise Agreement shall become effective thirty (30) days after its final reading; and

WHEREAS, the City Council finds and determines that all requirements for the extension of the non-exclusive electric utility franchise to TVEC has been met at that this ordinance and the Agreement contained herein shall become effective as set forth herein, and serves the public health, safety and welfare.

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

Section 1. Incorporation of Premises. The above recitals are found to be true and correct in all respects and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. Definitions. For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall," "will," and "must" are always mandatory and not merely directory.

(a) Affiliate. An entity that owns or controls, is owned or controlled by, or is under common ownership with, Grantee, including without limitation, assignees or successors in interest.

(b) Anniversary Date. The month and day of the Effective Date of this Franchise, during each year of the term of the Franchise.

(c) City. The City of Kaufman, Texas.

(d) Days. Calendar days unless otherwise specified.

(e) Effective Date. The date thirty (30) days after the final reading and adoption this Ordinance by the City.

(f) Facilities. All the plant and equipment of Grantee, including all tangible personal property, without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used,

controlled, furnished or supplied for, by, or in connection with the business of, Grantee.

(g) Franchise. The initial or renewed non-exclusive authorization granted hereunder to construct, operate, upgrade, rebuild and maintain an electric power utility system within the Public Rights-of-Way of the City. The term does not include any license or permit that is required by other applicable laws of the City for the privilege of transacting and carrying on a business within the City not included within the conditions of this Ordinance.

(h) Franchise Area. The incorporated area of the City and such additional areas as are included in the corporate limits of the City during the term of this Franchise.

(i) Grantee. Trinity Valley Electric Cooperative, Inc., a cooperative, or any Person who succeeds it, in accordance with the provisions of this Ordinance.

(j) Gross Revenues. Any and all revenues derived by Grantee or any Affiliate of Grantee from the operations of the electric power utility system and the Services provided within the City limits. Gross Revenues shall not include revenues received from the sale of electric power and energy to another electric utility, as that term is defined in Texas Utilities Code §31.002, as amended, for purposes of resale.

(k) Person. Any individual, firm, partnership, limited partnership, limited liability company, association, corporation, company, organization or entity of any kind.

(l) Public Rights-of-Way. The surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement or similar property in which the City holds any property interest or exercises any rights of management or control and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation, construction, operation, upgrade, rebuild and maintenance of an electric power utility system. No reference in this Ordinance to a Public Right-of-Way shall be deemed to be a representation or guarantee by the City that its interests or other rights in such property are sufficient to permit its use for the installation and maintenance of an electric power utility system and Grantee shall be deemed to gain only those rights which the City has the right and power to give.

(m) PUC. The Public Utility Commission of Texas, as presently constituted by the laws of the State of Texas, or its successor agency.

(n) Services. All acts done, rendered or performed and any and all things furnished or supplied and any and all facilities used, furnished or supplied

by Grantee to the consumer and any other Person in the performance of the rights granted pursuant to this Franchise. For purposes of this definition, the term "Services" shall be construed in its broadest and most inclusive sense.

Section 3. Grant of Non-Exclusive Authority. The City hereby grants to Trinity Valley Electric Cooperative, Inc., (hereinafter "Grantee") the non-exclusive franchise, right, authority and privilege to construct, erect, operate and maintain an electric power utility system in, upon, along, across, above, over and under the Public Rights-of-Way now laid out or dedicated, and all extensions thereof and additions thereto, in the Franchise Area. Grantee or its Affiliates shall not install or construct facilities within the Public Rights-of-Way to be used for services which are not authorized by this Franchise.

Section 4. Purpose. The provisions set forth in this Ordinance represent the exclusive terms and conditions under which Grantee shall construct, operate, and maintain the electric power utility system within the Public Rights-of-Way. In granting this Franchise, the City does not in any manner surrender, waive, release or relinquish its regulatory or other rights and powers under and by virtue of the Constitution and statutes of the State of Texas as the same may be amended, or any of its rights and powers under or by virtue of present or future ordinances of the City, except as may be set out herein. Grantee also retains all of its lawful authority and rights under the Public Utility Regulatory Act ("PURA"), and any other applicable laws, rules, and regulations. Not included in this Franchise are any facilities (including any equipment attached in any way to Grantee's facilities, whether owned by Grantee or not) that provide data delivery, cable service, telephone service, and/or any other service or product not required by Grantee for, or in support of, the transmittal and delivery of electricity.

Section 5. Use of Existing Pole Line Facilities.

(a) There is hereby granted the further right, privilege, and authority to Grantee to lease, license, rent, or in any other manner obtain the use of poles, underground conduits and other facilities from the City and any and all holders of public licenses and franchises within the limits of the Franchise Area, and to use such poles, underground conduits and other facilities, subject to all existing and future ordinances and regulations of the City. The poles used for Grantee's distributions system shall be those currently used and maintained by Grantee or erected and maintained by the City or the public utilities serving the City; provided that mutually satisfactory rental agreements or other arrangements can be entered into by Grantee with the City or said companies.

(b) In areas or locations where underground conduit is in use, is required by City ordinance (including but not limited to the City's Subdivision Ordinance) to be used, or shall at some future date be required by City ordinance to be used by public utility companies serving the City, Grantee, by negotiation with said companies, will join in the use of underground facilities, provided

mutually satisfactory agreements or other arrangements can be entered into with said companies; otherwise, Grantee shall install its own underground conduits and facilities in accordance with applicable regulations of the City and applicable provisions of this Franchise.

(c) Nothing in this Franchise shall authorize either party to attach any part of its facilities to any conduits or poles owned by the other party or third parties until the requesting party has entered into a separate agreement or other arrangement with the owner of such conduits or poles supported by independent consideration for such rights of attachment or use.

(d) Grantee shall cooperate with the City by providing complete, non-confidential, non-security-related information regarding the location of current and future overhead and underground wires, conduits, and poles within the Public Rights-of-Way. Reproducible copies of available maps showing the location of all overhead and underground wires and poles within the Public Rights-of-Way shall be furnished to the City Engineer upon request. The maps shall be provided in electronic digital format, if available. Grantee shall clearly mark any such documents that it considers to be proprietary or privileged by use of the word "Proprietary" in conspicuous letters.

Section 6. Duration. Upon the filing with the City by Grantee of a written acceptance required herein, this Franchise shall continue in full force and effect for a period of five (5) years, commencing on the Effective Date ("Initial Term"). At the expiration of the Initial Term, this Franchise will be automatically extended for one (1) additional five (5)-year term unless either the City or Grantee notifies the other party of non-renewal in writing no more than six (6) months and no fewer than three (3) months prior to the expiration of the Initial Term.

Section 7. Performance. The service furnished hereunder to the City and its inhabitants shall be first class in all respects considering all circumstances, and shall be subject to such reasonable rules and regulations as Grantee may make from time to time. Grantee may require reasonable security for payment of its bills. Grantee's performance shall be in accordance with industry standards for other electric power utility providers.

SECTION 8. INDEMNIFICATION.

(a) **In consideration of the granting of this Franchise, Grantee shall, at its sole cost and expense, release, defend, indemnify and hold harmless the City and all its past and present officials, officers, representatives, agents and employees, against any and all claims, causes of action, lawsuits, judgments, costs and expenses, including without limitation attorneys fees and costs of experts, for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons that may be occasioned by, or arise out of or relate to Grantee's breach of any of the terms or**

provisions of this Franchise, or by any intentional, knowing, reckless, negligent or strictly liable act or omission by Grantee, its officers, agents, employees, subcontractors, representatives, affiliates and subsidiaries in the construction, maintenance, operation, replacement, or repair of the distribution and/or transmission facilities, or in the provision of services pursuant to this Franchise, except that the indemnity provided for in this paragraph shall not apply to any separate contractors, and in the event of joint and concurrent negligence or fault of both Grantee and the City, responsibility and indemnity, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas without, however, waiving any governmental immunity available to the City or any of the defenses of the parties under Texas law. It is understood that it is not the intention of the parties hereto to create liability for the benefit of third parties, but that this Agreement shall be solely for the benefit of the parties hereto and shall not create or grant any rights, contractual or otherwise, to any person or entity. The provisions of this paragraph shall survive the termination of this Franchise.

(b) **In fulfilling its obligations to defend and indemnify the City, Grantee shall have the right to select defense counsel, subject to the City's approval, which will not be unreasonably withheld. Grantee shall retain defense counsel within seven (7) days of the City's written notice that the City is invoking its right to indemnification under this Contract. If Grantee fails to retain counsel within such time period, the City shall have the right to retain defense counsel on its own behalf, and in additional to damages, Grantee shall be liable for all reasonable defense costs incurred by the City, except as may otherwise be provided in this Section.**

Section 9. Liability Insurance. Grantee will, at its sole cost and expense, insure against the risks undertaken pursuant to the Franchise, including indemnification under Section 8 hereof. Such insurance may be in the form of self-insurance to the extent permitted by applicable law, including a PUC-approved formal plan of self-insurance maintained in accordance with sound accounting practices. Otherwise, Grantee shall maintain reasonably adequate insurance covering its obligations of indemnity under Section 8 hereof, duly issued by a company authorized to do business in the State of Texas, which at no time will be less than One Million Dollars ($1,000,000) in any one incident and Two Million Dollars ($2,000,000) aggregate on liability due to physical damage to property in any single policy year; and One Million Dollars ($1,000,000) as to any one person and One Million Dollars ($1,000,000) in any one incident for bodily injury and/or death. Grantee shall provide proof of Certificate of Insurance to the City within thirty (30) days of the Effective Date and annually thereafter. City shall be named as additional insured on all policies required under this Section.

Section 10. Maintenance of Street Lights. Grantee shall have the right to erect and maintain streetlights, poles, and appurtenances, consistent with applicable codes and ordinances, along the streets where Grantee is authorized to provide service within the City. Title to the facilities erected on City-owned property shall be in the City, and the City shall pay for the electricity used by such streetlights, and the installation costs thereof, erected on City-owned property in accordance with applicable tariffs.

Section 11. Franchise Fee.

(a) During the term of this Franchise and Grantee's operation of its electric power utility system under the terms of this Franchise, Grantee shall pay to the City a fee equal to four percent (4%) of the Gross Revenues. The franchise fee shall be paid quarterly, in arrears, within forty-five (45) days following the last day of each calendar quarter, and shall be computed on the basis of Gross Revenues received by the Grantee during the immediately preceding calendar quarter. The fee payable to the City hereunder shall be exclusive of and in addition to generally applicable ad valorem taxes, special assessments, fees for municipal improvements, and other lawful obligations of Grantee to the City.

(b) Upon written request, the City shall have the right, during normal business hours, to inspect Grantee's records showing the Gross Revenues from which payments to the City are computed, and to audit and re-compute any and all amounts paid under this Franchise. Any such inspection or audit shall take place within twenty-four (24) months following the end of the calendar period in question.

Section 12. Transfers and Change of Control. All of the rights and privileges and all of the obligations, duties and liabilities created by the Franchise shall pass to and be binding upon the successors and assigns of the City and the successors and assigns of Grantee; however, any or all of such rights and privileges shall not be assigned or transferred by Grantee without the prior written approval of the City, which approval shall not be unreasonably withheld or delayed. Such written approval shall be required in all instances where any of the current operations of Grantee are assigned and/or transferred to an Affiliate, a non-Affiliate, an affiliated or a non-affiliated entity or entities pursuant to changes in regulation by the PUC or State law concerning regulatory authority over electric power system operations.

Section 13. Notice. Any notices or notifications required or desired to be given from one party to the other party to this Franchise shall be in writing and shall be given and shall be deemed to have been served and received if: (a) delivered in person to the address set forth below; (b) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (c) delivered to such party by courier-receipted delivery. Either party may designate another address within the confines of the continental United States of America for

notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

CITY	GRANTEE
City of Kaufman	Trinity Valley Electric Cooperative, Inc.
209 S. Washington	1800 Hwy. 243 East
P.O. Box 1168	P.O. Box 888
Kaufman, Texas 75142	Kaufman, Texas 75142

Section 14. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason determined to be illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of this Franchise. It is the intent of the City in adopting this Franchise that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision, and to this end all provisions of this Franchise ordinance are declared to be severable.

Section 15. Home Rule Charter - Right of Regulation. In accordance with Section 10.05 of the Home Rule Charter of the City of Kaufman, the City of Kaufman reserves all rights of regulation as set forth therein, the terms of Section 10.05, "Right of Regulation" are incorporated herein by reference as if set forth fully herein. Such City right to regulation, including but not limited to the City's right to examine and audit accounts and records and to require annual reports from Grantee, City's right to require Grantee to restore at Grantee's sole expense all public or private property to a condition as good as or better than before disturbed by the Grantee for construction, repair, or removal of Grantee facilities, to require maintenance, expansion and extension of Grantee facilities to provide adequate service at the highest level of efficiency, to require reasonable standards of service and to repeal the Ordinance granting this Franchise for Grantee's failure to comply with its terms.

Section 16. Acceptance of Franchise. In order to accept the Franchise granted herein, Grantee must file with the City Secretary its written acceptance of this Ordinance and agreement to the terms of the Franchise as set forth herein within sixty (60) days after the City provides written notice to Grantee of this Ordinance's final passage and approval by the City ("City Adoption Notice"). Grantee shall pay all publication expense regarding notification of the accepted Franchise. Upon Grantee's written acceptance of the terms of this Franchise Agreement, all claims of the City and Grantee under any prior franchise ordinance or other agreement between the parties that were or could have been made by either party shall be forever waived and extinguished. Grantee's written acceptance of and agreement to the terms of this Franchise Ordinance shall be substantially in the form attached hereto and incorporated herein as **Exhibit "A".** Grantee affirms and represents that the individual executing Exhibit "A" is authorized to bind the Grantee to the terms of this Franchise Agreement, and further agrees to provide a corporate resolution or other such document to the City evidencing the authority of the individual executing Exhibit "A" to execute such document on behalf of Grantee and to bind Grantee to the terms of this Franchise Agreement.

Section 17. Non-Exclusive Right. 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 and privileges to any other person, firm or corporation.

Section 18. Cumulative Repealer. This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City and shall not operate to repeal or affect any such other ordinances, except insofar as the provisions thereof are inconsistent or in conflict with the provisions hereof, and to the extent of such conflict, if any, such other ordinances are hereby repealed.

First Reading held on April 27, 2020

Second Reading held on May 18, 2020.

DULY PASSED, APPROVED AND ADOPTED by the City Council of the City of Kaufman, Texas on this 18th day of May, 2020. This Ordinance shall take effect on June 17, 2020, a date 30 days after the date of second reading in accordance with the City's Home Rule Charter.

_____
JEFF JORDAN
MAYOR

ATTEST:

_____
JESSIE HANKS
CITY SECRETARY

APPROVED AS TO FORM:

_____
PATRICIA A. ADAMS
CITY ATTORNEY

Exhibit "A"

Agreement to Terms of Franchise (Ordinance No. O-08-20)

To the Honorable Mayor and City Council of the City of Kaufman, Texas: For itself, its successors, and assigns, Trinity Valley Electric Cooperative, Incorporated, a corporation, duly authorized to do business in the State of Texas, hereby accepts the attached Ordinance No. O-02-20 ("Franchise Agreement") and agrees to be bound by all of the terms, conditions, and provisions, which collectively constitute the Franchise Agreement between the City of Kaufman and Trinity Valley Electric Cooperative, Incorporated and expressly acknowledge that the obligations of and the benefits received by the parties set forth in the Franchise Agreement provide sufficient and agreed upon consideration.

TRINITY VALLEY ELECTRIC COOPERATIVE, INC.,

By:_____

Its:_____

Date: _____

Acknowledgment

STATE OF TEXAS §

§

COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____, the _____(title) of TRINITY VALLEY ELECTRIC COOPERATIVE, INCORPORATED, a Texas Corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she is authorized to execute and has executed the same for the purposes and consideration therein expressed on behalf of such corporation.

Given under my hand and seal of office this ____ day of _____, 2020.

_____

(SEAL) NOTARY PUBLIC in and for the

STATE OF TEXAS

_____

Printed Name

My commission expires: _____

Meeting Date: 4/27/2020 | **Date: 4/16/2020** | **Item #: 9.** | **Dept.: Administration**

Ordinance

SUBJECT:

Consider and take appropriate action on Ordinance O-09-20, an ordinance of the City of Kaufman, Texas, amending the Code of Ordinances, Chapter 98 “Taxation”, Article II “Hotel Occupancy Tax”, by repealing Section 98-34 “Quarterly Reports to City Secretary” in its entirety, and adopting a new Section 98-34, entitled “Quarterly Reports and Payment of Taxes” requiring the filing of quarterly reports and making of quarterly payments of local Hotel Occupancy Taxes, and temporarily extending the hotel occupancy tax quarterly payment remittance deadlines for the first, second, and third quarters of the calendar year 2020, such that the deadline for remittance of local hotel occupancy tax shall be extended to December 31, 2020 for those quarters only; Providing for the Incorporation of Premises; Providing a Cumulative/Repealer Clause; Providing a Severability/Conflicts Clause; and Providing an Effective Date.

BACKGROUND:

Staff is proposing the deferment of required Hotel Occupancy Tax payments to a future date. Due to the impacts and response to the COVID-19 virus, local hotel occupancy has been reduced substantially. The deferment would provide some financial relief to the owners during this unique time, by allowing them to defer payment until the end of the year without penalty.

Author:
Mike Holder, Assistant City Manager

Reviewed:
Mike Slye, City Manager

Cost: N/A **Funds Available:** N/A **Source:** H.O.T. ACCOUNT

Recommendation: Staff recommends approval of Ordinance O-09-20 as presented.

Safe & Secure	Business Friendly/Economic Development	Partnership & Community Involvement	Healthy & Environmentally Cons. Comm.	Financial & OPS Stewardship
☐	☒	☐	☐	☐

CITY OF KAUFMAN, TEXAS

ORDINANCE NO. O-09-20

AN ORDINANCE OF THE CITY OF KAUFMAN, TEXAS, AMENDING THE CITY OF KAUFMAN CODE OF ORDINANCES CHAPTER 98 "TAXATION", ARTICLE II "HOTEL OCCUPANCY TAX", BY REPEALING SECTION 98-34 "QUARTERLY REPORTS TO CITY SECRETARY" IN ITS ENTIRETY, AND ADOPTING A NEW SECTION 98-34, entitled "QUARTERLY REPORTS AND PAYMENT OF TAXES" REQUIRING THE FILING OF QUARTERLY REPORTS AND MAKING OF QUARTERLY PAYMENTS OF LOCAL HOTEL OCCUPANCY TAXES, AND TEMPORARILY EXTENDING THE HOTEL OCCUPANCY TAX QUARTERLY PAYMENT REMITTANCE DEADLINES FOR THE FIRST, SECOND, AND THIRD QUARTERS OF THE CALENDAR YEAR 2020 SUCH THAT THE DEADLINE FOR REMITTANCE OF LOCAL HOTEL OCCUPANCY TAX SHALL BE EXTENDED TO DECEMBER 31, 2020 FOR THOSE QUARTERS ONLY; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING A CUMULATIVE/REPEALER CLAUSE; PROVIDING A SEVERABILITY/CONFLICTS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Texas Local Government Code, Section 51.001, the City has general authority to adopt ordinances and regulations that are for good government, peace and order of the City; and

WHEREAS, the City, as a home-rule municipality, pursuant to Texas Local Government Code, Section 51.072, has full power of local self-government, and may exercise the authority incident to local self-government; and

WHEREAS, Chapter 351 of the Texas Tax Code allows for the imposition and collection of Hotel Occupancy Taxes by municipalities; and

WHEREAS, the negative economic impacts of the COVID-19 (Coronavirus) Pandemic and the local and state wide declaration of disaster, has significantly affected local hoteliers situated in the City of Kaufman; and

WHEREAS, the City Council has determined it necessary to take action to mitigate the negative economic impact of the Coronavirus on hotels located within the City of Kaufman by extending due dates for payment of hotel occupancy taxes to the City for the first, second and third quarters of calendar year 2020; and

WHEREAS, the change in payment dates for City levied hotel occupancy tax is only a temporary measure, and following expiration of the temporary extension, the regular quarterly payment remittance deadline of January 31, 2021, shall again apply to the 4th quarter period of calendar year 2020, and all quarterly collections periods occurring thereafter shall return to the regular quarterly payment schedule; and

WHEREAS, in order to implement this temporary extension, the City Council has determined it necessary to amend Chapter 98 "Taxation", Article II "Hotel Occupancy Tax", Section 98-34 "Quarterly Reports to City Secretary", of the Code of Ordinances of the City of Kaufman, Texas, by amending Section 98-34 to add provisions extending the deadlines for the

quarterly payment remittance deadlines for the first, second, and third quarters of calendar year 2020 to December 31, 2020, in order to mitigate some of the negative economic impacts of COVID-19 (Coronavirus) Pandemic response on local hoteliers; and

WHEREAS, this City Council has determined that the adoption of this Ordinance to effect the temporary extension of payment is necessary or the long term economic health of the hotel industry within the City and serves the best interest of public health, safety, and welfare.

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

SECTION 1. The findings and recitations set out in the preamble of the Ordinances are found to be true and correct and they are hereby adopted by the City Council and made part hereof for all purposes.

SECTION 2. Chapter 98 "Taxation", Article II "Hotel Occupancy Tax", Sec. 98-34 "Quarterly Reports to City Secretary" of the Code of Ordinances of the City of Kaufman, Texas, is hereby repealed in its entirety and the following Section 98-34, "Quarterly Reports and Payment of Taxes," is hereby adopted and shall be and read in its entirety as follows with all other sections and subsections of Section 98, not expressly amended hereby to remain in full force and effect:

"Sec. 98-34. Quarterly Reports and Payment of Taxes.

a. **Deadline for Filing Report and Payment of Taxes.** On the last day of the month following each quarterly period, every person required to collect the tax imposed by this Article shall file a report with the City Secretary, or other City designee, showing the price paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, and any other information the City may reasonably require. **Except as otherwise provided in subsection (b) of this Section**, such Person shall pay the tax due on such occupancies at the time of filing such report and payments not timely made shall be subject to penalties, interest and other enforcement remedies of the City pursuant to this Article and state law. The report shall be in a form prescribed by the City. The City Secretary is authorized and directed to do all such things necessary or convenient to carry out the terms of this Article in accordance with state law. The City Secretary shall have the authority to request and receive within a reasonable time documentation necessary for verification of information contained in the report to the City and such Person shall provide the requested information within ten (10) days of the date of the City's request..

b. **Temporary Extension of Deadline for Payment of Taxes.** The time for payment of City's portion of hotel occupancy taxes set forth by subsection (a) of this Section, shall be temporarily extended for payment of local hotel occupancy taxes for the first, second, and third quarters of calendar year 2020 in accordance with the following schedule:

Collection Quarter – Local Hotel Occupancy Tax	Regular Due Date for Remittance	Extended Due Date for Remittance

1st Quarter (January, February, March 2020)	April 31, 2020	December 31, 2020
2nd Quarter (April, May, June 2020)	July 31, 2020	December 31, 2020
3rd Quarter (July, August, September 2020)	October 31, 2020	December 31, 2020

Payments made after the extended due date set forth in this section shall be subject to interest, penalties and other enforcement in accordance with this Article 98, as amended, and applicable state law. Further, this subsection extends only the time for remittance of local hotel occupancy tax to the City of Kaufman and does not impact any reporting or remittance requirements applicable to a Hotel pursuant to state law or any other provision of this Article, including without limitation subsection (a) of this Section. The deadline for filing of reports with the City required by subsection (a) remains in effect and is not altered by the due dates set forth in this subsection for payment.

SECTION 3. **Cumulative/Repealer Clause.** This Ordinance shall be cumulative of all other Ordinances of the City of Kaufman and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinances. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance.

SECTION 4. Severability/Conflicts Clause. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance or in Article 98 of the Kaufman Code of Ordinances or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect. Additionally, to the extent of any conflict between state law and Article 98, state law shall control.

SECTION 5. Effective Date. This Ordinance shall take effect immediately from and after its passage.

DULY PASSED, APPROVED AND ADOPTED by the City Council of the City of Kaufman, Texas on this 27th day of April, 2020.

_____
JEFF JORDAN
MAYOR

ATTEST:

_____

JESSIE HANKS
CITY SECRETARY

APPROVED AS TO FORM:

_____

PATRICIA A. ADAMS
CITY ATTORNEY

Meeting Date: 4/27/2020 | **Date: 4/15/2020** | **Item #: 10.** | **Dept.: Administration**

Resolution

SUBJECT:

Consider and take appropriate action on Resolution R-12-20, a resolution of the City of Kaufman, Texas, authorizing the City Manager to enter into an agreement with the Texas Department of Transportation to temporarily close SH 34 and FM 1388 for the purpose of the annual Independence Day Celebration Parade

BACKGROUND:

The City of Kaufman, Kaufman Chamber of Commerce, and Keep Kaufman Beautiful will be hosting the Annual Independence Celebration Parade on Thursday, July 4th beginning at 9:00 a.m. This resolution is for the purpose of requesting permission for TxDot to close SH 34 and FM 1388 for the Red, White, & Boom Parade.

Staff is seeking Council direction on the continuation of the event as a whole.

Author:
Jessie Hanks, City Secretary

Reviewed:
Mike Slye, City Manager

Cost: N/A **Funds Available:** N/A **Source:** N/A

Recommendation: Staff recommends approval of Resolution R-12-20 as presented.

Safe & Secure	Business Friendly/Economic Development	Partnership & Community Involvement	Healthy & Environmentally Cons. Comm.	Financial & OPS Stewardship
☐	☐	☒	☐	☐

RESOLUTION NO. R-12-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KAUFMAN, TEXAS AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION TO TEMPORARILY CLOSE PORTIONS OF SH 34 AND FM 1388 ON SATURDAY, JULY 4, 2020 FROM 9:00 A.M. UNTIL 11:00 A.M. FOR THE PURPOSE OF THE ANNUAL INDEPENDENCE CELEBRATION PARADE; PROVIDING FOR THE INCORPORATION OF PREMISES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kaufman hosts an Independence Celebration Parade to celebrate Independence Day on or about July 4th each year; and

WHEREAS, the City Council desires to formally enter into an agreement with the Texas Department of Transportation to temporarily close portions of SH 34 and FM 1388 (one-way traffic operation around the Kaufman County Courthouse, Washington Street, and FM 1388) in Kaufman County, which is part of the parade route; and

WHEREAS, the event will be located within the City of Kaufman's incorporated area; and

WHEREAS, the City Council of the City of Kaufman has determined that it is in the best interest of the City of Kaufman to enter into an agreement with the Department of Transportation.

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

SECTION 1. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. The City Council does hereby authorize the City Manager to enter into an agreement with the Texas Department of Transportation for the temporary closure of portions of SH 34 and FM 1388 (one-way traffic operation around the Kaufman County Courthouse, Washington Street, and FM 1388) in Kaufman County, on July 4, 2020 for the Independence Celebration Parade. The Agreement is attached hereto as “Exhibit A” and incorporated herein.

SECTION 3. This Resolution shall become effective immediately upon its passage and approval.

PASSED AND APPROVED on this the 27th day of April, 2020.

_____
JEFF JORDAN
MAYOR

ATTEST:

_____
JESSIE HANKS
CITY SECRETARY

APPROVED AS TO FORM:

_____
PATRICIA A. ADAMS
CITY ATTORNEY

April 27, 2020

Mr. Lane Selman, P.E.
Area Engineer
Texas Department of Transportation
2750 South Washington Street
Kaufman, Texas 75142

Re: Annual Independence Celebration

Dear Mr. Selman:

The City of Kaufman hosted the Independence Celebration parade last year.

On behalf of the City of Kaufman, I am requesting approval from the Texas Department of Transportation (TxDOT) to incorporate F.M. 1388 (Houston Street) and State Highway 34 (Washington Street) as part of the parade route in accordance with 43 T.A.C. § 22.12 (g) (4). The parade will actually be held on **Saturday, July 4th**, beginning at **9:00 a.m.** and will last no more than two (2) hours from start to finish. This year the anticipated parade route will be as follows:

Begin at Kaufman High School located at 3205 South Houston Street,
Travel north on Houston Street (F.M. 1388),
Travel north on Washington Street to the Courthouse Square,
Travel west on Grove Street, and
End at Shannon Park on Shannon Street next to the American Legion Post #165.

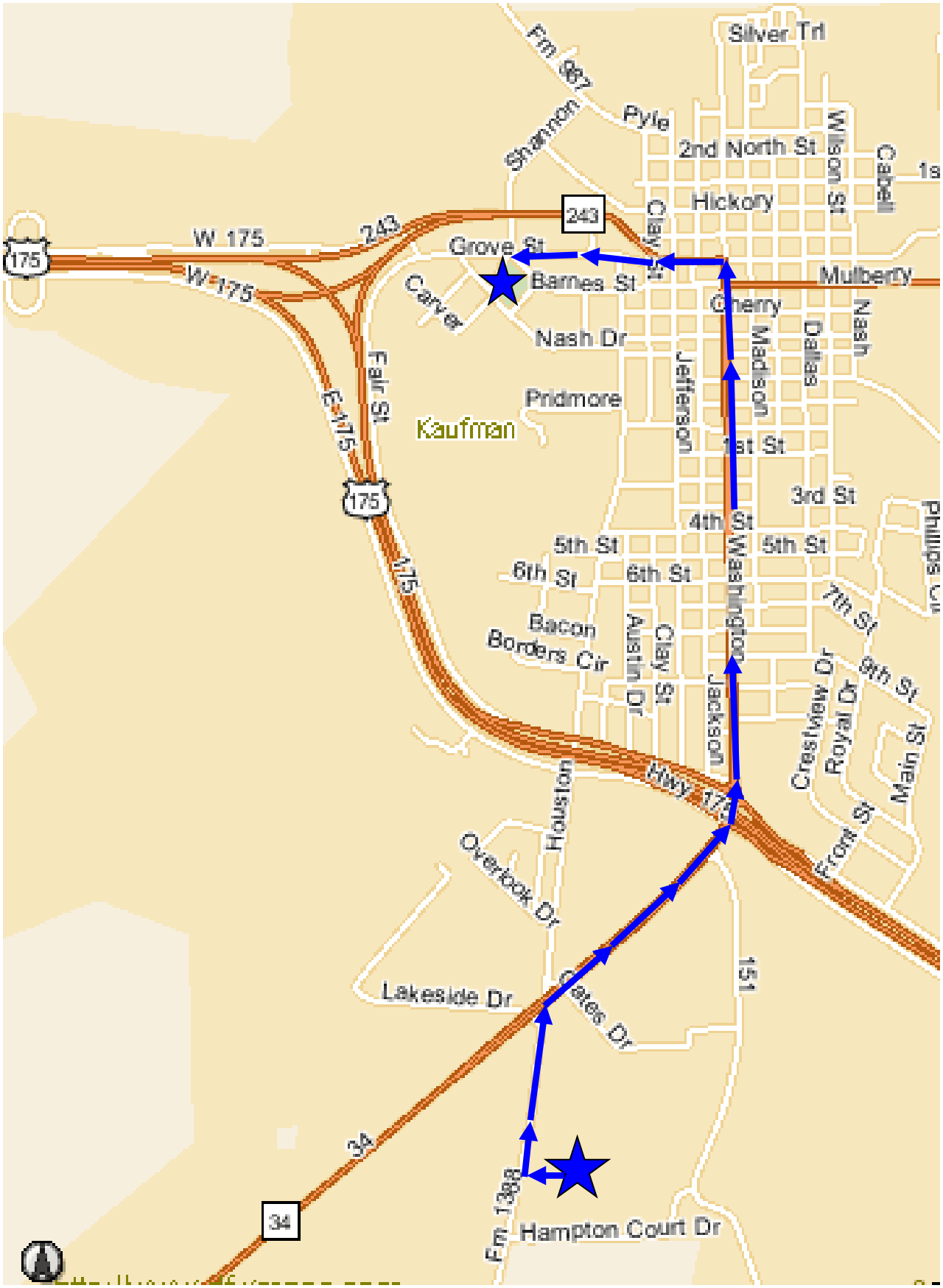
The Kaufman Police Department will be stationed along the parade route to direct traffic as needed. The Police Department will utilize authorized law enforcement personnel for this routine traffic control event and assumes responsibility for traffic control to protect and direct all parties involved.

If you have any questions, please do not hesitate to contact me at the City of Kaufman at (972) 932-2216. I look forward to hearing from you.

Respectfully,

Jessie Hanks
City Secretary

Enclosures


Silver Trl
Fm 987
Shannon
Pyle
2nd North St
Wilson St
Cabell
1s
Hickory
243
Clay St
W 175
175
243
Grove St
Barnes St
Mulberry
Cherry
Carver
Nash Dr
Madison
Dallas
Nash
Jefferson
Fair St
W 175
Pridmore
Kaufman
1st St
3rd St
4th St
5th St
6th St
Washington
Phillips Cr
Bacon
Borders Cir
Austin Dr
Clay St
Jackson
7th St
9th St
Crestview Dr
Royal Dr
Main St
Houston
Hwy 175
Front St
Overlook Dr
Lakeside Dr
Cates Dr
151
34
Fm 1389
Hampton Court Dr

Meeting Date: 4/27/2020 **Date: 4/15/2020** **Item #: 11.** **Dept.: Police**

Resolution

SUBJECT:

Consider and take appropriate action on Resolution R-13-20, a resolution of the City of Kaufman, Texas, supporting implementation of the U.S. Department of Justice Comprehensive Body-Worn Camera Policy and Implementation Program; authorizing the chief of police to apply for a related program grant to fund the purchase of body-worn cameras for the Kaufman Police Department; providing that if the City of Kaufman receives the program grant, the city will match the grant amount for the purchase of body-worn cameras; providing for the incorporation of premises; and providing an effective date.

BACKGROUND:

On March 6, 2020 the listed grant was posted to Law Enforcement agencies through the U.S. Department of Justice, Office of Justice Programs, and Bureau of Justice Assistance. The grant is offered as a 1:1 match if we are awarded the grant. The FY 2020 Body-Worn Camera (BWC) Policy and Implementation Program will allow us to enhance our current Watch Guard dash camera system. Watch Guard has developed an integrated system that not only gives the Officer point of view but a much wider picture. The new V300 BWC camera system will require us to purchase a new server for digital storage. Cost of the new server, (12) BWC's, installation and training is $41,610.00. Our (3) Detectives will also be assigned the new BWC's to use while taking statements and interviewing witnesses. Half of the cost of this equipment will be paid out of the Kaufman Police Department seizure fund at no cost to our citizens. Attached to this document is a copy of the Resolution No. R-13-20 for your approval.

Author:
Dana Whitaker, Police Chief

Reviewed:
Mike Slye, City Manager

Cost: $22,305.00 **Funds Available:** Yes **Source:** Seizure Funds

Recommendation: Staff recommends approval of Resolution R-13-20.

Safe & Secure	Business Friendly/Economic Development	Partnership & Community Involvement	Healthy & Environmentally Cons. Comm.	Financial & OPS Stewardship
X				X

RESOLUTION NO. R-13-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KAUFMAN, TEXAS, SUPPORTING IMPLEMENTATION OF THE U.S. DEPARTMENT OF JUSTICE COMPREHENSIVE BODY-WORN CAMERA POLICY AND IMPLEMENTATION PROGRAM; AUTHORIZING THE CHIEF OF POLICE TO APPLY FOR A RELATED PROGRAM GRANT TO FUND THE PURCHASE OF BODY-WORN CAMERAS FOR THE KAUFMAN POLICE DEPARTMENT; PROVIDING THAT IF THE CITY OF KAUFMAN RECEIVES THE PROGRAM GRANT, THE CITY WILL MATCH THE GRANT AMOUNT FOR THE PURCHASE OF BODY-WORN CAMERAS; PROVIDING FOR THE INCORPORATION OF PREMISES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance implemented the Comprehensive Body-Warn Camera Policy and Implementation Program and recently expanded the program by allowing municipalities across the nation to seek funding for the purchase of body-worn cameras for their law enforcement agencies (the "Bureau of Justice Assistance Grant"); and

WHEREAS, the goal of the Bureau of Justice Assistance Grant is to promote safety of law enforcement officers and citizens and to improve justice outcomes by leveraging digital media evidence; and

WHEREAS, if the City of Kaufman receives the Bureau of Justice Assistance Grant, the City agrees to provide matching funds for FY 2020 for the purchase of body-worn cameras as required by the Bureau of Justice Assistance Grant; and

WHEREAS, the City of Kaufman finds it in the best interest of the citizens of Kaufman to support the Comprehensive Body-Worn Camera Policy and Implementation Program.

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

SECTION 1. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. The City of Kaufman supports implementation of the Comprehensive Body-Worn Camera Policy and Implementation Program in an effort to provide further safety for law enforcement officers and citizens. The City further agrees to match funding for FY 2020 for the purchase of body-worn cameras with the Bureau of Justice Assistance Grant, as required by the grant, if the City is chosen as a grant recipient, in an amount not to exceed $2,000.00 per body-worn camera purchased.

SECTION 3. The City Council approves the admission of the Bureau of Justice Assistance Grant application for FY 2020, on behalf of the City of Kaufman.

SECTION 4. The City Council hereby designates the Chief of Police as the City's authorized official for FY 2020 for the Body-Worn Camera Policy and Implementation Program, and authorizes him to apply for, accept, reject, alter, or terminate the Bureau of Justice Assistance Grant, and all related documents, on behalf of the City of Kaufman.

SECTION 5. This Resolution shall become effective immediately upon its passage and approval.

PASSED AND APPROVED on this the 27th day of April, 2020.

_____
JEFF JORDAN
MAYOR

ATTEST:

_____
JESSIE HANKS
CITY SECRETARY

APPROVED AS TO FORM:

_____
PATRICIA A. ADAMS
CITY ATTORNEY

DISCUSSION ITEMS REPORT (DIR)

Project Title	Department	Agenda Date	Entered Date	Status/Notes
Splash Pad	Parks &Rec	TBD	10/23/2018	TDPW Grant/Parks Master Plan
Thoroughfare Plan Update	Development Serv	TBD	10/23/2018	
WWTP Finance Application	Finance	11/13/2018	10/23/2018	GTUA Approval
Bldg Standards Commission Ordinance	Development Serv	9/1/2019	10/23/2018	BSC to review
Civic Center	Admin	7/22/2019		Demo underway
Marlow Development	Development Serv	4/22/2019	10/23/2018	Accept Utilities
54-Acre Development	Development Serv		10/23/2018	On-going discussions with Developer
Park Dedication Ordinance	Development Serv		10/23/2018	City Attorney Drafting Ordinance
Recodification of City Ordinances	Admin	11/13/2018	10/23/2018	Staff Review
Phase II - Street Bond	Public Works	10/28/2019	10/23/2018	Underway
Subdivision Ordinance Update	Development Serv	1/27/2020	10/23/2018	TNP Preparing proposal
TxDOT Turnback	Admin	12/17/2018	11/6/2018	In Process
Citizens Academy	Admin/Public Safety		11/27/2018	Planning Phase
Explorer Post	PD		11/27/2018	On hold/KISD not interesterd
Kaufman Lake	Admin/PW		1/8/2019	Appraisal/MLS listing
Downtown Parking	Admin		1/16/2019	Input from Downtown Advisory Committee
Street Maintenance Priorities	PW/Admin		2/27/2019	List Presented to Council
Kaufman Estates	PW/Admin	10/28/2019		Council Action to Amend CCN
Building Code Update	Development Serv	10/28/2019	6/4/2019	Approved O-28-19
Summer Youth Program	Admin/Parks	TBD	7/16/2019	Council Update 2/24/20
City Lakes Emer Action Plan	Public Works	TBD	8/7/2019	
Disc Golf Course	Admin/PW	TBD	8/23/2019	Planning Phase
Washington Street Utility Relocation	Admin/PW	TBD	10/1/2019	SUE forwarded to TxDOT
Kaufman Square Speakers	Admin/PW	TBD	10/22/2019	Downtown Development Board Approved
Intern Program	HR	TBD	12/10/2019	Policy to Council 3/30/20
TPW Grant for City Lake Park	Parks &Rec	TBD	12/10/2019	10/1/2020
Traffic Signal 1388@34 ByPass	Admin		1/28/2020	TxDOT Project
PD/FD Safety Equipment Grant	Public Safety	TBD	3/3/2020	Application Submitted
CareFlight Facility	Admin	TBD	3/9/2020	Discussions regarding relocation
COVID - 19	Admin/Public Safety	TBD	3/11/2020	Action Plan in Place
Update Zoning Map 2019	Development Serv	TBD	3/17/2020	Provided Info to TNP

STAR TRANSIT
Phone: 877-631-5278 | **Fax:** 972-563-0048 | **Website:** STARtransit.org
PO Box 703 | Terrell | TX 75160

April 2, 2020

To: City of Kaufman

From: Ashley Berryhill, Grant Director

Re: March 2020 Kaufman Trolley #701 Ridership Report

TRIP INFORMATION:

	S	O	N	D	J	F	M	A	M	J	J	A	TOTAL
Trips	365	398	288	274	294	292	243						**2,154**
No. Service Days	20	23	19	20	21	19	22						**144**

SERVICE INFORMATION:

Trips	243
Vehicle Revenue Miles (VRM)	3,372
Vehicle Service Miles (VSM)	3,456
Vehicle Deadhead Miles (VDH)	83

STOP UTILIZATION INFORMATION:

STOP NUMBER(S)	STOP DESCRIPTION	TOTAL PICK UP AND DROP OFFS
10 & 22	WALMART	157
13 & 25	7TH ST & DALLAS ST	54
5	WASHINGTON @ E HICKORY ST	47

BELOW IS THE STOP USAGE SUMMARY FOR THE MONTH OF MARCH:

Mar-20																
Stop #	**1 15 27**	**2**	**3**	**4**	**5**	**6-18**	**7-19**	**8-20**	**9-21**	**10-22**	**11-23**	**12-24**	**13-25**	**14-26**	**16**	**17**
Stop Usage	32	16	3	12	47	26	2	17	17	157	42	1	54	31	29	29

Kaufman Trolley #701 Stop Utilization Detail

BELOW IS THE STOP USAGE SUMMARY FOR THE MONTH OF MARCH:

Mar-20																																
Stop #	1 15 27	1 15 27	2	2	3	3	4	4	5	5	6-18	6-18	7-19	7-19	8-20	8-20	9-21	9-21	10-22	10-22	11-23	11-23	12-24	12-24	13-25	13-25	14-26	14-26	16	16	17	17
PU/ DO	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓	↑	↓
PU/ DO Total	**20**	**12**	**13**	**3**	**2**	**1**	**9**	**3**	**25**	**22**	**11**	**15**	**1**	**1**	**10**	**7**	**7**	**10**	**69**	**88**	**19**	**23**	**0**	**1**	**28**	**26**	**12**	**19**	**17**	**12**	**0**	**0**
Stop Usage	32		16		3		12		47		26		2		17		17		157		42		1		54		31		29		0	

	3/2 - 3/6	**3/9 - 3/13**	**3/16 -3/20**	**3/23 - 3/27**	**3/30 - 3/31**	
701A	38	27	21	33	10	*129*
701B	45	30	26	6	7	*114*
	83	*57*	*47*	*39*	*17*	**243**

STAR TRANSIT
Phone: 877-631-5278 | **Fax:** 972-563-0048 | **Website:** STARtransit.org
PO Box 703 | Terrell | TX 75160

April 6, 2020

To: City of Kaufman

From: Ashley Berryhill, Grant Director

Re: March Demand and Response Ridership Report

TRIP INFORMATION:

	S	O	N	D	J	F	M	A	M	J	J	A	TOTAL
Trips	537	605	570	611	652	1,033	520						**4,528**
No. Service Days	20	23	19	20	21	19	22						**144**

NO. OF TRIPS	PURPOSE
0	Education
9	Government
50	Medicaid
136	Medical
84	Nutrition (Senior Center)
83	Other (adult-day care, beauty salon, friend's homes, etc.)
44	Shopping
64	Work
50	Contract Services

ELDERLY AND DISABLED RIDERSHIP	
60	Disabled Trips
250	Elderly (&/or Dis) Trips

310 *E &D Total Rides*

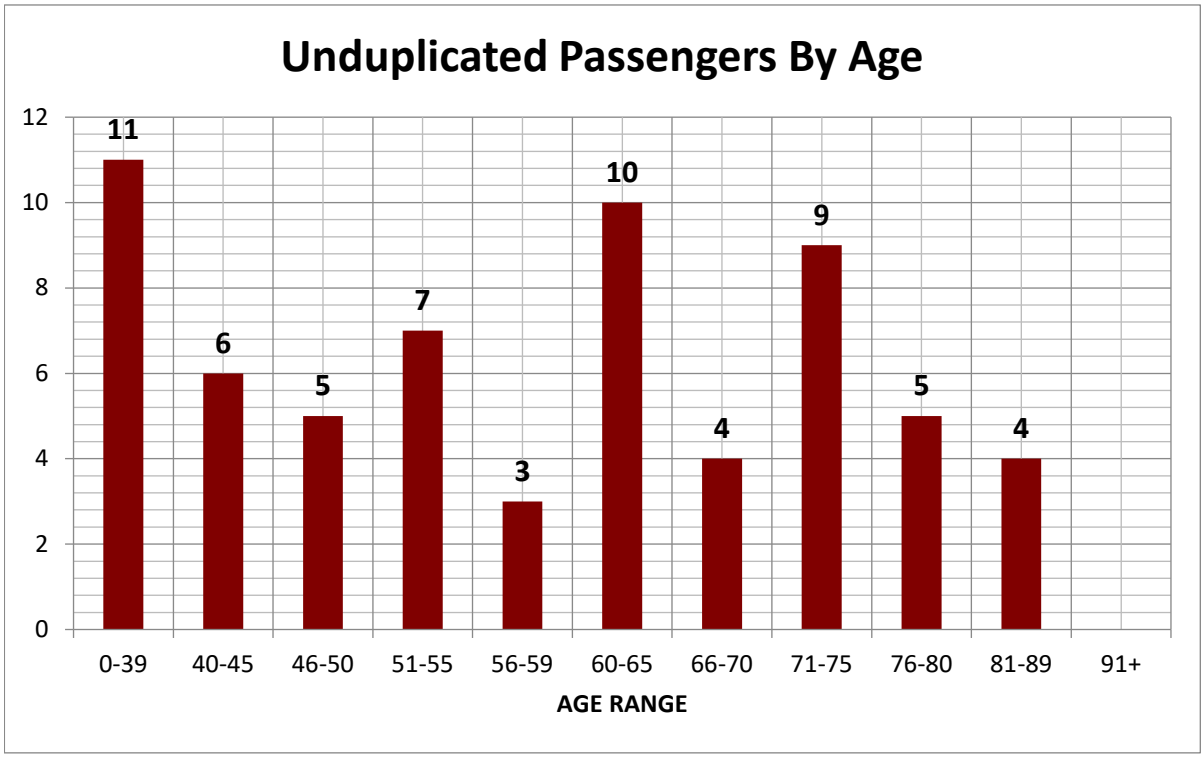
E & D Percent of Total Trips – 40%

MARCH UNDUPLICATED PASSENGERS
64
YEAR TO DATE UNDUPLICATED PASSENGERS
173

	Trip Total
KAUFMAN TO KAUFMAN	367
KAUFMAN TO OUTSIDE	78
OUTSIDE TO KAUFMAN	75
	520

NOSHOW/CANCEL	325
DENIALS	18
Month to Month Unduplicated	64
YTD Unduplicated	173

March 2020 Total D & R Trips	**520**



CareFlite City of Kaufman Response Summary
March 2020

Response Summary:

	Responses	Transports	Exceptions	Compliance %	Transport %
Priority 1 <8:59	32	21	0	100%	**66%**
Priority 2 <11:59	68	37	2	95%	**54%**
Priority 3 <14:59	27	16	0	100%	**59%**
Emergency Transfers<0:29:59	97	94	45	52%	**97%**
Non-Emergency Transfers<0:15	45	44	9	80%	**98%**
Helicopter	12	12			
Totals	**281**	**224**		**98.20%**	**59.77%**

Transport Summary:

	Number	Percentage
Baylor Scott and White Dallas	8	4%
Baylor Scott and White Sunnyvale	8	4%
Baylor Scott and White Lakepointe Rowlett	0	0%
Baylor Scott and White Lakepointe Forney	0	0%
Childrens Medical Center	12	6%
Dallas Regional Medical Center	1	0%
Medical City Dallas	6	3%
Parkland	1	0%
Texas Health-Dallas	57	27%
Texas Health- Kaufman	59	28%
Texas Health -Plano	5	2%
Texas Health-Rockwall	2	1%
UT Health- Athens	0	0%
UT Health- Tyler	0	0%
UT Health- Cedar Creek	0	0%
VA Medical Center Dallas	1	0%
Other Hospitals	20	9%
Nursing home, residence, other	32	15%
	212	**100%**

	Number	% of Total
Patient Refusal/Treat No Transport	24	42%
Pt is DOS	0	0%
Cancellation- No Patient	33	58%
	57	100%

Average Response Time City Wide--Emergency Calls	0:05:49

	Responses	Exceptions	
Last 100 Calls			
Priority 1	100	2	98%
Priority 2	100	2	98%
Priority 3	100	0	100%

MAY 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5 Planning & Zoning Meeting	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21 Parks & Rec Meeting	22	23
24/31	25 Regular City Council Meeting	26 Keep Kaufman Beautiful Board Meeting	27	28	29	30

JUNE 2020

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2 Planning & Zoning Meeting	3	4	5	6
7	8	9 KEDC	10	11	12	13
14	15	16	17	18 Parks & Rec Meeting	19	20
21	22 Regular City Council Meeting	23 Keep Kaufman Beautiful Board Meeting	24	25	26	27
28	29	30				