



CITY COUNCIL REGULAR AGENDA

Tuesday, January 11, 2022

Notice is hereby given that the City Council of the City of Big Spring, Texas will meet in Regular Session on Tuesday, January 11, 2022, at 5:30 pm at the City Council Chambers Located at 307 East 4th Street, Big Spring, Texas. **We welcome the public to attend the meeting via telecommunication. Citizens will be able to view the City Council Meeting on Our Local Channel 17 through Suddenlink or on Our Website <http://mybigspring.com/224/Channel-17-Live>.**

CITY COUNCIL MEETING ETIQUETTE

Gentlemen are requested to remove their hats inside the City Council Chambers. As a courtesy to those in attendance, please place your cell phone on “Silent” or “Vibrate.” Please, no Talking during the meetings. Take all conversations outside so that others can hear.

Open Session

1. Call to Order Thomason
2. Invocation Thomason
3. Pledge of Allegiance to the United States Flag and to the Texas State Flag Thomason

Public Comment

Public Comment – Members of the public are entitled to speak on any topic. Additionally, members of the public may comment on any action item before or during its consideration. Speakers are Requested to Stand at the Podium and State Their Name and Address. Speakers Should Fill out the Form at the Podium and Turn it into the City Secretary. Please Do Not Exceed Five (5) Minutes.

4. **Public Comment – If you have public comments, please call 432-264-2411.** Thomason

Announcements, Presentations and Public Hearings

Public Hearings – The Council will take Input on Items Requiring Public Hearing Items Prior to any Action.

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| 5. | Presentation Over Section 3 Workers for Active TDA TxCDBG Grants | | Chelsey Baldivia |
| 6. | PUBLIC HEARING - First Public Hearing Regarding Redistricting Plans | | Bob Bass |

City Manager's Report

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| 7. | Large Item Pickup – District 1 – January 19 th | | Darden |
| 8. | Martin Luther King Holiday – January 17 th | | Darden |

Consent Items

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| 9. | Approval of the City Council Minutes of the Regular Meeting of December 14, 2021 | 7-14 | Davis |
| 10. | Final Reading of a Resolution Authorizing Amendments to the City of Big Spring Personnel Policy Manual; and Establishing an Effective Date | 15-39 | Medina |
| 11. | Final Reading of an Ordinance Amending Chapter 2 of the Big Spring City Code Entitled “Administration,” Section 2-196 “Payment Card Fees and Service Charges” by Adding a New Subsection (c-1) Authorizing and Directing Municipal Court Officials to Charge a Card Reimbursement Fee Specified by the City Council or the City Manager; Providing for Expiration of this Provision on January 9, 2023; Providing for Severability; Providing for Publication; and Providing an Effective Date | 40-41 | Darden |
| 12. | Final Reading of an Ordinance Amending Chapter 2 of the Big Spring City Code Entitled “Administration,” by Adding a New Section 2-197 Entitled “Official Bonds” to Establish the Amount of Various Bonds for City Officials; Providing for Severability; and Providing an Effective Date | 42-43 | Darden |

Other Business

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| 13. | TABLED - Consideration and Possible Action to Remove all Members Who Were Appointed Prior to July 1, 2021 from the Airpark Development Board, Parks and Recreation Board, Traffic | | Yanez |
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Commission, Planning and Zoning Commission, Animal Rescue and Adoption Committee, Board of Adjustments and Appeals, and the Zoning Board of Adjustments

Vouchers

14.	Vouchers for 12/16 /2021	\$ 1,148,146.65		Hughes
	Vouchers for 12/29/2021	\$ 749,403.25		
	Vouchers for 01/06/2021	\$ 828,830.43		

Bids

15.	Consideration and Possible Action to Accept a Bid Award for Lease Purchase Financing for Capital Items and Authorizing the City Manager or His Designee to Execute any Necessary Documents	44-45		S. Smith
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New Business

16.	Acknowledge Receipt of the Big Spring Economic Development Board of Directors Minutes of the Regular Meeting of November 16, 2021	46-47		Mark Willis
17.	Acknowledge Receipt of Quarterly Claims and Litigation Report from the City Attorney			Hagen
18.	Consideration and Possible Action to Accept a Donation from Oxy Petroleum Corporation to the Fire Department	48		Ferguson
19.	Consideration and Possible Action to Donate Some Fencing to The Salvation Army/Boys and Girls Club	49		Ferguson
20.	Consideration and Possible Action on a Contract Renewal with CGI Communications, Inc., and Authorizing the City Manager or his Designee to Execute any Necessary Documents	50-53		Hagen
21.	First Reading of a Resolution to Set the Rotation Period of Members of City Council to Verify and Audit Payment Vouchers to a Monthly Basis; and Providing an Effective Date	54-55		Ornelas
22.	First Reading of a Resolution Amending the Big Spring Economic Development Corporation by Amending the Number of Directors and the Manner of Appointment of Directors; and Providing for Rules of Procedure; and Providing an Effective Date	56-63		Hagen

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| 23. | First Reading of a Resolution Approving and Adopting New District Boundaries for the Election of City Council Members; and Providing an Effective Date | 64-81 | Hagen |
| 24. | First Reading of an Ordinance Adopting the 2021 Edition of the International Property Maintenance Code, Regulating and Governing the Conditions and Maintenance of all Property, Buildings and Structures within the City Limits; By Providing the Standards for Supplied Utilities and Facilities and Other Physical Things and Conditions Essential to Ensure that Structures are Safe, Sanitary and Fit for Occupation and Use; and the Condemnation of Buildings and Structures Unfit for Human Occupancy and Use, and the Demolition of such Existing Structures in the City of Big Spring; Providing for the Issuance of Permits and Collection of Fees therefor; Repealing Chapter 36, "Nuisances," Article II, "Unsanitary, Unsightly, and Public Nuisance Conditions of Property in its Entirety; Amending Chapter 44, "Solid Waste," Article I, "In General," Section 1, "Definitions," Section 44-1 and Article III, "Illegal Dumping and Litter Control," Section 101, "Definitions to Amend the Definitions of "Garbage"; and Amending the Structural Standards Ordinance, Article I, Section 1.05 "Definitions," Subsection (c) "Building Codes" to Include Chapter 36, Articles I and III in the Building Codes; Providing for Severability; Providing for Publication; and Providing an Effective Date | 82-96 | Bowles |
| 25. | First Reading of an Ordinance Amending Ordinance Number 039-2021 Which Adopted the Annual Budget for the City of Big Spring, Texas for the Fiscal Year Beginning October 1, 2021 and Ending September 30, 2022 by Increasing the Special Revenue Fund, Senior Center, Budget for the Purpose of Purchasing a New Vehicle for the Senior Center; Providing for Repeal of Ordinances in Conflict Herewith; Providing for Publication; and Providing an Effective Date | 97-98 | Herrera |
| 26. | Boards and Committees | | Thomason |

TABLED

Big Spring Economic Development Corporation Board

Councilmember Yanez withdrew this nomination

Jonathan Ray – Nominated by Councilmember Yanez (Dist. 2)

Board of Adjustments and Appeals

Rosie Franco – Nominated by Councilmember Yanez (Dist. 2)

Animal Rescue & Adoption Committee

Amy French – Nominated by Councilmember Hughes (Dist. 3)

Convention & Visitors Bureau Board

Kristy Tyra – Nominated by Councilmember Tompkins (Dist. 5)

Emaan Campbell – Nominated by Mayor

Council Input

- 27. Input Thomason

Executive Session

- 28. **Adjourn** into Executive Session Under the Provisions of Title 5, Texas Government Code, Section 551.087 Regarding “(1) 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; or (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).” Thomason

- 29. **Reconvene** in Open Session and Take Any Necessary Action as Deemed Appropriate in the City Council’s Discretion. Thomason

- 30. **Adjourn** Thomason

The City Council reserves the right to meet in executive session on any agenda item should the need arise pursuant to Chapter 551, Subchapter D of the Texas Government Code, or the Texas Disciplinary Rules of Professional Conduct.

Sec. 551.144. CLOSED MEETING; OFFENSE; PENALTY.

(a) A member of a governmental body commits an offense if a closed meeting is not permitted under this chapter and the member knowingly:

- (1) calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;
- (2) closes or aids in closing the meeting to the public, if it is a regular meeting; or
- (3) participates in the closed meeting, whether it is a regular, special, or called meeting.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

- (1) a fine of not less than \$100 or more than \$500;
- (2) confinement in the county jail for not less than one month or more than six months; or

(3) both the fine and confinement.

I hereby certify that this agenda was posted on the official bulletin board at the City of Big Spring, City Hall Building, located outside 310 Nolan Street. Given by order of the City Council and Posted on Friday, January 7, 2022 at 4:45 p.m. in accordance with Title 5, Texas Government Code and Chapter 551.

In addition, this agenda and supporting documents are posted on the City of Big Spring's Website, www.mybigspring.com, in accordance with legal requirements.



Tami L. Davis, City Secretary

PERSONS WISHING TO HAVE AN INTERPRETER SHOULD CONTACT TAMI DAVIS AT 264-2513 or tdavis@mybigspring.com. REQUESTS FOR AN INTERPRETER SHOULD BE MADE AT LEAST 72 HOURS IN ADVANCE OF THE MEETING TIME.

STATE OF TEXAS :
COUNTY OF HOWARD :
CITY OF BIG SPRING :

The City Council of the City of Big Spring, Texas, met in a regular meeting in the City Council Chambers located at 307 E. 4th St., Big Spring, Texas, at 5:30 p.m., December 14, 2021, with the following members present in person:

SHANNON THOMASON	Mayor
NICK ORNELAS	Mayor Pro Tem
DIANE YANEZ	Councilmember
CODY HUGHES	Councilmember
GLORIA MCDONALD	Councilmember
MAURY SMITH	Councilmember

The following member was present via zoom:

TROY TOMPKINS	Councilmember
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Same and constituting a quorum, for which four Councilmembers must be present; and the following staff in person;

TODD DARDEN	City Manager
JOHN MEDINA	Assistant City Manager
ANDREW HAGEN	City Attorney
CRAIG FERGUSON	Fire Chief
CHAD WILLIAMS	Police Chief
SHANE BOWLES	Public Works Director
SANDY SMITH	Finance Director
HAYLEY HERRERA	Community Services Director
TAMI DAVIS	City Secretary
TIM GREEN	Municipal Judge

INVOCATION & PLEDGE OF ALLEGIANCE

Councilmember Smith gave the invocation and Mayor Thomason led the Pledge of Allegiance to the American and Texas Flags.

PUBLIC COMMENT

One citizen spoke in regards to the summit meeting.

CITY MANAGER'S REPORT

Todd Darden, City Manager, gave an update on the following:

- Large Item Pickup for District 6

- Christmas Holiday – December 23rd & 24th
- New Year’s Day Holiday – December 30th
- CVB Board Appointments
- Update on Public Funds Investment Acts Training
- Andrews ISD Bus Accident

CONSENT ITEMS

APPROVAL OF THE CITY COUNCIL MINUTES OF THE REGULAR MEETING OF NOVEMBER 16, 2021 AND OF THE SPECIAL MEETING OF DECEMBER 8, 2021

FINAL READING OF A RESOLUTION AUTHORIZING AND APPOINTING THE CITY MANAGER TO SUBMIT AN APPLICATION TO THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM TO SECURE FUNDING FOR DEPARTMENT OPERATIONS/MEDIA DATA MANAGEMENT NETWORK SERVERS; AND SUPERSEDING RESOLUTION 02-2021 AND PROVIDING AN EFFECTIVE DATE

FINAL READING OF A RESOLUTION AUTHORIZING PROFESSIONAL SERVICE PROVIDER SELECTION FOR CORONAVIRUS LOCAL FISCAL RECOVERY FUND PROGRAMS THROUGH THE AMERICAN RESCUE PLAN ACT OF 2021; AND PROVIDING AN EFFECTIVE DATE

FINAL READING OF AN ORDINANCE AMENDING ORDINANCE NUMBER 039-2021 WHICH ADOPTED THE ANNUAL BUDGET FOR THE CITY OF BIG SPRING, TEXAS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022 BY INCREASING THE GENERAL FUND BUDGET FOR THE PURPOSE OF REPLACING THE BOILER IN THE AUDITORIUM; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

Motion was made by Mayor Pro Tem Ornelas to approve the above captioned minutes, resolutions and ordinance, seconded by Councilmember Hughes, with all members of the Council present voting “aye.”

VOUCHERS

Mayor Pro Tem Ornelas reviewed the following vouchers:

VOUCHERS FOR 11/18/2021	\$	1,071,618.98
VOUCHERS FOR 12/02/2021	\$	461,360.11
VOUCHERS FOR 12/09/2021	\$	820,651.92

Motion was made by Mayor Pro Tem Ornelas to approve the above captioned vouchers, seconded by Councilmember Hughes, with all members of the Council present voting “aye.”

NEW BUSINESS

ACKNOWLEDGE RECEIPT OF THE ZONING BOARD OF ADJUSTMENT MINUTES OF THE REGULAR MEETING OF NOVEMBER 10, 2021

Councilmembers acknowledge receipt of the above captioned minutes.

ACKNOWLEDGE RECEIPT OF THE BIG SPRING ECONOMIC DEVELOPMENT BOARD OF DIRECTORS MINUTES OF THE REGULAR MEETING OF OCTOBER 28, 2021

Councilmembers acknowledge receipt of the above captioned minutes.

CONSIDERATION AND POSSIBLE ACTION TO ACCEPT A DONATION FROM THE BROUGHTON FOUNDATION TO THE BIG SPRING SENIOR CENTER

Motion was made by Mayor Thomason to accept the above captioned donation in the amount of \$20,000, seconded by Councilmember McDonald, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION ON ALL MATTERS INCIDENT AND RELATED TO THE ISSUANCE AND SALE OF CITY OF BIG SPRING, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2022, INCLUDING THE ADOPTION OF AN ORDINANCE AUTHORIZING THE ISSUANCE OF SUCH BONDS AND ESTABLISHING PROCEDURES AND DELEGATING AUTHORITY FOR THE SALE AND DELIVERY OF SUCH BONDS – DUE TO STATE LAW, THIS ORDINANCE WOULD BE ADOPTED UPON ONE READING WITH A MAJORITY VOTE OF CITY COUNCIL

City Council adjourned into break at 6:09 p.m.

City Council reconvened into open session at 6:16 p.m. and Councilmember Yanez left the meeting.

Motion was made by Councilmember McDonald to approve the above captioned ordinance, seconded by Councilmember Hughes, with all members of the council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION ON A LEASE AGREEMENT WITH ENTERPRISE FLEET MANAGEMENT FOR THE LEASE-PURCHASE OF FOUR (4) POLICE PACKAGE CHEVROLET TAHOE’S AND ONE (1) HALF-TON ANIMAL CONTROL PICKUP WITH BOX AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Councilmember Hughes to approve the above captioned lease agreement, seconded by Councilmember Smith, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION ON A CONTRACT EXTENSION,
AMENDMENT #6 WITH VECTOR FLEET MANAGEMENT FOR THE ANNUAL RATE
ADJUSTMENT AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO
EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Mayor Thomason to approve the above captioned contract extension, seconded by Councilmember Hughes, Councilmembers Hughes, Thomason, McDonald, Tompkins and Smith voting “aye.” Mayor Pro Tem Ornelas, being opposed, voting “nay” for passage of same. Motion **passed** five to one.

CONSIDERATION AND POSSIBLE ACTION ON A RUNOUT AGREEMENT WITH TML
HEALTH AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE
ANY NECESSARY DOCUMENTS

Motion was made by Councilmember Hughes to approve the above captioned agreement, seconded by Councilmember McDonald, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION ON AN AGREEMENT WITH SCENIC
MOUNTAIN MEDICAL CENTER, A STEWARD FAMILY HOSPITAL, FOR THE
PURCHASE OF MEDICATIONS AND AUTHORIZING THE CITY MANAGER OR HIS
DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Mayor Pro Tem Ornelas to approve the above captioned agreement, seconded by Councilmember Smith, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION ON AN AGREEMENT WITH CIVICPLUS
FOR AGENDA AND MEETING MANAGEMENT SOFTWARE AND AUTHORIZING THE
CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Councilmember Hughes to approve the above captioned agreement, seconded by Councilmember McDonald, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION TO PURCHASE FROM CALLON
PETROLEUM OPERATING COMPANY A 30-FOOT WIDE WATER LINE EASEMENT
OUT OF A 12.24 ACRE TRACT OF LAND IN THE N/2 OF SECTION 25, BLOCK 33, T-1-N,
T & P RR. CO. SURVEY, ABSTRACT #214, HOWARD COUNTY, TEXAS FOR \$42,750
AND AUTHORIZING THE MAYOR TO EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Mayor Thomason to approve the above captioned easement, seconded by Councilmember Hughes, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION ON A LEASE IN BUILDING 19 AT THE
AIRPARK AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO
EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Councilmember Smith to approve the above captioned lease, seconded by Mayor Pro Tem Ornelas, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION ON A LEASE TERMINATION AGREEMENT WITH D & I SILICA, LLC AND AUTHORIZING THE MAYOR TO EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Councilmember Hughes to approve the above captioned termination agreement, seconded by Councilmember McDonald, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION ON A COLLECTION AGREEMENT WITH HOMEAWAY.COM, INC. FOR THE COLLECTION OF HOTEL OCCUPANCY TAX OF VRBO (VACATION RENTAL BY OWNER) AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS

The above captioned agreement was not considered at this time.

CONSIDERATION AND POSSIBLE ACTION ON AN ENGINEERING SERVICES AGREEMENT WITH JACOB MARTIN, LLC FOR WATER TREATMENT PLANT SLUDGE DEWATERING IMPROVEMENTS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS

Motion was made by Councilmember Hughes to approve the above caption agreement, seconded by Councilmember Smith, with all members of the Council present voting “aye.”

FIRST READING OF A RESOLUTION AUTHORIZING AMENDMENTS TO THE CITY OF BIG SPRING PERSONNEL POLICY MANUAL; AND ESTABLISHING AN EFFECTIVE DATE

Motion was made by Mayor Thomason to approve the above captioned resolution, seconded by Mayor Pro Tem Ornelas, with all members of the Council present voting “aye.”

Councilmembers adjourned into break at 6:56 p.m.

Councilmembers reconvened into open session at 7:02 p.m.

FIRST READING OF AN ORDINANCE AMENDING CHAPTER 2 OF THE BIG SPRING CITY CODE ENTITLED “ADMINISTRATION,” SECTION 2-196 “PAYMENT CARD FEES AND SERVICE CHARGES” BY ADDING A NEW SUBSECTION (c-1) AUTHORIZING AND DIRECTING MUNICIPAL COURT OFFICIALS TO CHARGE A CARD REIMBURSEMENT FEE SPECIFIED BY THE CITY COUNCIL OR THE CITY MANAGER; PROVIDING FOR EXPIRATION OF THIS PROVISION ON JANUARY 9, 2023; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

Motion was made by Mayor Pro Tem Ornelas to approve the above captioned ordinance, seconded by Councilmember Smith, with all members of the Council present voting “aye.”

EMERGENCY READING OF A RESOLUTION AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO NEGOTIATE WITH HEIRS OF GEORGE W. NEILL TO PAY THE OUTSTANDING PROPERTY TAXES IN CONNECTION WITH THE ACQUISITION OF THE PROPERTY AT 1505 E. 2ND STREET FOR THE PURPOSE OF BUILDING A SEWER LIFT STATION AND PROVIDING AN EFFECTIVE DATE

Motion was made by Councilmember Smith to approve the above captioned resolution as an emergency, seconded by Councilmember McDonald, with all members of the Council present voting “aye.”

EMERGENCY READING OF AN ORDINANCE ORDERING AND DECLARING THE NOVEMBER 2021 CHARTER AMENDMENTS, AS APPROVED BY THE VOTERS OF THE CITY OF BIG SPRING, ADOPTED; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

Motion was made by Councilmember Hughes to approve the above captioned ordinance as an emergency, seconded by Councilmember Smith, with all members of the Council present voting “aye.”

FIRST READING OF AN ORDINANCE AMENDING CHAPTER 2 OF THE BIG SPRING CITY CODE ENTITLED “ADMINISTRATION,” BY ADDING A NEW SECTION 2-197 ENTITLED “OFFICIAL BONDS” TO ESTABLISH THE AMOUNT OF VARIOUS BONDS FOR CITY OFFICIALS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

Motion was made by Councilmember Hughes to approve the above captioned ordinance, seconded by Councilmember McDonald, with all members of the Council present voting “aye.”

CONSIDERATION AND POSSIBLE ACTION TO REMOVE ALL MEMBERS WHO WERE APPOINTED PRIOR TO JULY 1, 2021 FROM THE AIRPARK DEVELOPMENT BOARD, PARKS AND RECREATION BOARD, TRAFFIC COMMISSION, PLANNING AND ZONING COMMISSION, ANIMAL RESCUE AND ADOPTION COMMITTEE, BOARD OF ADJUSTMENTS AND APPEALS, AND THE ZONING BOARD OF ADJUSTMENTS

Motion was made by Mayor Thomason to table the above captioned request, seconded by Mayor Pro Tem Ornelas, with all members of the Council present voting “aye.”

BOARDS AND COMMITTEES

McMahon-Wrinkle Airpark Development
John Watkins – Nominated by Mayor Pro Tem Ornelas (Dist. 1)

John Watkins was appointed to the McMahon-Wrinkle Airpark Development Board by acclamation of the City Council.

Board of Adjustments and Appeals

Rosie Franco – Nominated by Councilmember Yanez (Dist. 2)

Big Spring Economic Development Corporation Board

Jonathan Ray – Nominated by Councilmember Yanez (Dist. 2)

Motion was made by Councilmember McDonald to table the above captioned appointments, seconded by Councilmember Hughes, with all members of the Council present voting “aye.”

COUNCIL INPUT

All Councilmembers thanked the staff and wished everyone a Merry Christmas and Happy New Year.

Mayor Pro Tem Ornelas thanked everyone who participated in the ribbon cutting at the ABC Park for the new pavilion. Mayor Pro Tem Ornelas also reminded everyone in District One of the large item pickup in January and he will have some help for citizens over 65.

Councilmember Tompkins is concerned with the understaffing in the Animal Control Department.

Mayor Thomason thanked everyone who participated in the summit meeting and addressed the citizen question regarding the veterans and suggested coordinating with the other entities to help. Mayor Thomason also reminded citizens of the new COVID variant and to keep taking precautions. Mayor Thomason reminded everyone to help control the pet population by having their pets spayed or neutered.

EXECUTIVE SESSION

ADJOURN INTO EXECUTIVE SESSION IN ACCORDANCE WITH THE PURPOSES PERMITTED BY THE OPEN MEETINGS ACT, SECTION 551.071(2), TEXAS GOVERNMENT CODE, “CONSULTATION WITH ATTORNEY; CLOSED MEETING,” AND THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT TO PROVIDE LEGAL ADVICE AND COUNSEL WITH RESPECT TO THE CITY OF BIG SPRING’S RIGHTS, DUTIES, PRIVILEGES, AND OPTIONS ARISING OUT OF THE EXISTING LEASE AND OPERATIONS AGREEMENTS GOVERNING THE BIG SPRING CORRECTIONAL CENTER

Motion was by Councilmember Smith to adjourn into executive session at 7:49 p.m., seconded by Councilmember McDonald, with all members of the Council present voting “aye.”

RECONVENE IN OPEN SESSION FOR CONSIDERATION AND APPROPRIATE ACTION, IF ANY, REGARDING ADMINISTRATION, NEGOTIATIONS, MANAGEMENT, OR

**OTHER ACTION PERTAINING TO THE EXISTING LEASE AND OPERATIONS
AGREEMENTS GOVERNING THE BIG SPRING CORRECTIONAL CENTER AT 9:21 P.M.**

No action was taken.

ADJOURN

Mayor Thomason adjourned the meeting at 9:22 p.m.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AUTHORIZING AMENDMENTS TO THE CITY OF BIG SPRING PERSONNEL POLICY MANUAL; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City desires to provide a set of guidelines intended to create and maintain understanding and cooperation among the employees of the City and to set forth results and procedures to enhance the services of the City to its citizens; and

WHEREAS, state and federal rules and regulations set certain provisions regarding City employees, some of which must be set forth in writing; and,

WHEREAS, the City Manager and City Council agree that it is in the best interest of the City and its employees to amend the City's personnel policies for efficiency; and

WHEREAS, the City Council and City Manager have reviewed the existing personnel policy and believe the proposed updates to the Personnel Policy Manual should be adopted, to be effective immediately.

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

SECTION 1. The foregoing recitals are adopted and incorporated herein for all purposes.

SECTION 2. The attached Exhibit A, which includes the amended policies for the Sexual Harassment Policy, Drug and Alcohol Use Policy, and the Drug and Alcohol Policy for DOT Employees, shall be amended to reflect the changes proposed by the City Council and City Manager and shall be considered the current Policy in the Personnel Policy Manual for the City's use.

SECTION 3. All resolutions and policies, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

SECTION 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject

matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

SECTION 7. Should any section, paragraph, sentence, clause, phrase, or word of this ordinance be declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby.

SECTION 8. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 9. This Ordinance shall take effect immediately after passage in accordance with the provisions of the Charter of the City of Big Spring, and it is accordingly so ordained.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the **14th** day of **December, 2021** with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the **11th** day of **January, 2022** with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

EXHIBIT A

**SEXUAL HARASSMENT POLICY, DRUG AND ALCOHOL USE POLICY, AND THE
DRUG AND ALCOHOL POLICY FOR DOT EMPLOYEES**

SEXUAL AND OTHER UNLAWFUL HARASSMENT

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

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

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

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

Other Prohibited Harassment. In addition to the City's prohibition against sexual harassment, harassment on the basis of any other legally protected characteristic is also strictly prohibited. This means that verbal or physical conduct that singles out, denigrates, or shows hostility or

aversion toward someone because of race, religion, color, national origin, age, disability, genetics, veteran status, citizenship, or any other characteristic protected by law is also prohibited.

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

This policy also prohibits sending, showing, sharing, or distributing in any form, inappropriate jokes, pictures, comics, stories, etc., including but not limited to via facsimile, e-mail, cell phone or other electronic devices, social media, and/or the Internet, such as YouTube and Facebook. Harassment of any nature, when based on race, religion, color, sex, national origin, age or disability, genetics, veteran status, citizenship or any other characteristic protected by law is prohibited and will not be tolerated.

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

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

- the Department Director;
- the Director of Human Resources;
- the City Manager.

Any employee who believes that she or he has been the target of sexual or other harassment, or who believes she or he has been subjected to retaliation for having brought or supported a complaint of sexual or other harassment, is encouraged, but not required, to directly inform the offending person or persons that *such* conduct is offensive and must stop. Any supervisor, manager, or Department Director who becomes aware of possible conduct prohibited by this policy must immediately advise the Department Director and /or the Director of Human Resources. The City is committed, and required by law, to take action if it learns of potential sexual or other harassment, even if the aggrieved employee does not wish to formally file a complaint. A formal Complaint Form is available from the Director of Human Resources, to assist with the complaint allegations, but it is not required for reporting harassment.

Under this policy, an employee may also report to and/or contact the Director of Human Resources directly, without regard to the employee's normal chain of command.

City of Big Spring Human Resources Office

310 Nolan Street

Big Spring, Texas 79720

432-264-2345

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

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

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

Responsive Action. Misconduct constituting harassment or retaliation will be dealt with appropriately. Discipline, up to and including dismissal will be imposed upon any employee who is found to have engaged in conduct prohibited by this policy. Likewise, disciplinary action will be imposed in situations where claims of prohibited conduct were untruthful, fabricated or exaggerated or when employees are untruthful during an investigation. Any employee who is terminated for violation of the City's Sexual and Other Unlawful Harassment Policy is ineligible for future employment with the City.

DRUG AND ALCOHOL USE POLICY

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

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

The use of alcohol by a City employee during a business lunch is prohibited even though the person with whom the employee is having lunch may be consuming alcohol. Further, an employee on duty or conducting City business, including City-related business entertainment, may not drive his or her own personal vehicle while under the influence of alcohol. No employee in his or her work-related capacity should ever be impaired because of the excessive use of alcohol. City employees may not bring alcoholic beverages on City premises, including parking lots adjacent to City work areas, and may not store or transport alcohol in a City-owned or leased vehicle.

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

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

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

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

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

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

Off-Duty Conduct. The City may take disciplinary action, up to and including termination of employment, if an employee's off-duty use of or involvement with drugs or alcohol is damaging to the City's reputation or business, is inconsistent with the employee's job duties, or when such off-duty use or involvement adversely affects the employee's job performance. Any employee reporting to work under the influence of illegal drugs or alcohol (.02 bac or higher) may be disciplined, up to and including termination.

Rehabilitation/Treatment.

1. It is the City's desire to assist employees who voluntarily request assistance with alcohol or drug dependency. For City support and assistance, however, an employee

must acknowledge the problem and seek and accept counseling and/or rehabilitation before it impairs job performance and/or jeopardizes the employee's employment. The City will administer this policy in line with the Americans With Disabilities Act.

2. Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take a leave of absence to participate in a rehabilitation or treatment program. (An employee may not enroll in a rehabilitation or treatment program in lieu of disciplinary action.) The leave of absence may be granted in the City Manager's sole discretion. Factors considered by the City in deciding whether to grant leave include: the length of the employee's employment with the City; the employee's prior work and disciplinary history; the employee's agreement to abstain from the use of the problem substance and follow all other requirements of the rehabilitation/treatment program; the reputation of the program and the likelihood of a successful outcome; the employee's compliance with City policies, rules, and prohibitions relating to conduct in the workplace; and the resulting hardship on the City due to the employee's absence. Unless otherwise required by law, it is the City's policy to grant such a leave of absence only once during the course of an employee's employment with the City.

3. During time off for a City-approved rehabilitation or treatment program, the employee must use any available vacation leave, sick leave, compensatory time off, or other accrued paid leave time. The City Manager will determine whether additional unpaid leave may be needed as an accommodation or otherwise after all paid leave is used.

4. If the employee successfully completes the prescribed rehabilitation or treatment, the City will make reasonable efforts to return the employee to the prior position or one of similar pay and status. However, employment with the City following a City-approved leave for rehabilitation or treatment is conditioned on the following:

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

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

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

In addition to any testing required in connection with the employee's ongoing treatment

or follow-up to treatment, safety sensitive employees who participate in rehabilitation or treatment under this section will also be required to submit to periodic and/or random testing by the City during 12-month period following the employee's return to work following treatment.

Policy Violations. Violations of this policy will generally lead to disciplinary action, up to and including immediate termination of employment and/or required participation in a substance abuse rehabilitation or treatment program. The Police and Fire Departments may follow their own disciplinary rules or under their respective agreements, if any, regarding violation of this policy. Employees with questions or concerns about substance dependency or abuse are encouraged to discuss these matters with their supervisor or the Director of Human Resources to receive assistance or referrals to appropriate resources in the community.

TESTING

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

Testing of Applicants. All applicants to whom a conditional offer of employment has been made will be required to submit to testing for illegal and unauthorized drugs. A positive test result, refusal to test, or attempts to alter or tamper with a sample or any other part of the test, will render the applicant ineligible for consideration of employment or future employment with the City. For clear and manifest cause, the City Manager may decide to remove a prospective employee's ineligibility for a positive test result.

Testing of Employees.

1. Employees may be tested for alcohol and/or illegal and unauthorized drugs after a workplace injury or accident or "near miss," when reasonable suspicion exists, return to duty, or in connection with any required treatment or rehabilitation. The City may conduct random testing on employees holding safety-sensitive positions.
2. Police and Fire Department employees are also subject to any applicable Departmental rules and regulations regarding illegal and unauthorized drug and alcohol testing.
3. For purposes of this policy, reasonable suspicion is a belief based on articulable observations (e.g., observation of alcohol or drug use, apparent physical state of impairment, incoherent mental state, changes in personal behavior that are otherwise unexplainable, deteriorating work performance that is not attributable to other factors, a work-related accident or injury, evidence of possession of substances or objects which

appear to be illegal or unauthorized drugs or drug paraphernalia) sufficient to lead a supervisor to suspect that the employee is under the influence of illegal or unauthorized drugs or alcohol. Supervisors who refer an employee for reasonable suspicion testing must document the specific factors that support reasonable suspicion testing (e.g., the who, what, when, where of the employee's behavior and other symptoms, statements from other employees or third parties, and other evidence supporting the reasonable suspicion testing).

4. Tests will be paid for by the City. To the extent possible, testing will normally be done during the employee's normal work time.

5. Any employee who refuses to be tested, or who attempts to alter or tamper with a sample or any other part of the testing process, will be subject to disciplinary action up to and including termination.

6. A positive test result is a violation of the City's Drug and Alcohol Use Policy and may result in disciplinary action up to and including termination of employment. Any employee who is terminated for violation of the City's Drug and Alcohol Use Policy is ineligible for future employment with the City. For clear and manifest cause, the City Manager may decide to remove a prospective employee's ineligibility under this part.

7. The City has additional obligations when testing for controlled substances and alcohol for those employees regulated by the U.S. Department of Transportation. Please see the City's Drug and Alcohol Policy for DOT Employees for additional information.

Testing Procedures.

1. All testing must normally be authorized in advance by both the employee's Department Director and the Director of Human Resources. If the Department Director is unavailable within a reasonable period of time, the Director of Human Resources may, with sole discretion, authorize the testing of an employee. If the Director of Human Resources is unavailable within a reasonable period of time, the Department Director may, with sole discretion, authorize the testing of an employee. For reasonable suspicion testing, testing may not be authorized without the supervisor's documentation of the articulable factors which led the supervisor to suspect that the employee is under the influence of illegal or unauthorized drugs or alcohol. Testing should be arranged as soon as possible after the supervisor's articulable observations.

2. If an employee's conduct resulted in a workplace accident, injury or "near miss," or reasonable suspicion exists to believe that the employee has violated the City's Drug

and Alcohol Use Policy, the employee will be provided with transportation to the testing facility. A supervisor or other designated City representative may be required to stay with the employee during the testing process. The City may, in its discretion, reassign the employee or put the employee on administrative leave until the test results are received. The City will make arrangements to have the employee transported home after the testing.

3. All substance abuse testing will be performed by an approved laboratory or healthcare provider chosen by the City. All positive test results will be subject to confirmation testing.

4. Test results will be maintained in a confidential file separate and apart from the employee's personnel file. Any medical-related information will be confidential and accessible only by the Director of Human Resources; supervisors and managers on a need to know basis, including those who have a need to know about necessary restrictions on the work or duties of an employee and any necessary accommodation; first aid and safety personnel when appropriate; government officials; insurance companies as may be necessary to provide health or life insurance to employees; by court order or as otherwise legally mandated; and as necessary to protect the interests of the City.

DRUG AND ALCOHOL POLICY FOR DOT EMPLOYEES

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

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

An employee subject to the provisions of this policy may be a person employed by the City. The list of job titles on Attachment A may change as job responsibilities change or as new jobs are added to the City's work force. Employees required by DOT to hold a CDL, due to the type of vehicle or equipment they operate, are subject to this policy whether or not this list is immediately updated to include their job titles. Employees who hold these jobs are required to carry their CDLs when they are at work or are operating City equipment.

Prohibited Alcohol Use.

- a. **On-duty and Pre-duty Use.** Reporting for, or remaining on, duty requiring the performance of safety-sensitive functions is prohibited under the following conditions:

- While having a breath alcohol concentration of 0.04 or more as indicated via breath test;
 - While using alcohol; or
 - Within 4 hours after using alcohol.
- b. **Use Following An Accident.** An employee required to take a post-accident alcohol test pursuant to this policy is prohibited from using alcohol for 8 hours following the accident, or until undergoing a post-accident alcohol test, whichever occurs first.

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

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

- a. **Pre-employment Testing.** Drug and alcohol tests will be conducted after a conditional offer of employment is made, but before actually performing safety-sensitive functions for the first time. These tests are also required when employees are promoted, demoted or transferred into a safety sensitive driver position.
- b. **Post-accident testing.** Drug and alcohol tests will be conducted after accidents in which the driver's performance could have contributed to the accident (as determined by a citation for a moving traffic violation) and for all fatal accidents even if the driver is not cited for a moving traffic violation. Post-accident testing must be conducted as soon as

practicable on all surviving drivers following an occurrence involving a CMV operating on a public road in commerce, as follows:

- When the employee is issued a moving traffic violation citation and one or more of the vehicles involved is disabled and must be towed from the scene;
- When the employee is issued a moving traffic violation citation and any person involved in the accident is injured to the extent that he/she requires and receives immediate medical treatment away from the scene of the accident; or
- In an accident involving a fatality, testing will be performed on anyone who was performing safety sensitive functions with respect to the vehicle.

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

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

Post-Accident Alcohol Testing. If alcohol testing cannot be administered within 2 hours of one of the above listed occurrences, a written statement explaining why the alcohol test was not promptly administered must be provided to the Director of Human Resources by the appropriate supervisor. If alcohol testing cannot be administered within 8 hours after the occurrence, the City will cease attempts to administer an alcohol test and

document the reasons the alcohol test was not administered. This report must be promptly forwarded to the Director of Human Resources.

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

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

Reasonable Suspicion Alcohol Testing. Reasonable suspicion alcohol testing is permitted only if the reasonable suspicion observation is made during, just before, or just after, the period of the workday the employee is required to be in compliance with this policy. An employee may be directed to undergo reasonable suspicion testing only while the employee is performing, just before performing, or just after performing, safety sensitive functions. If alcohol testing cannot be administered within 2 hours after the reasonable suspicion observation, a written statement that explains why the alcohol test was not promptly administered must be given to the Director of Human Resources. If alcohol testing cannot be administered within 8 hours after the observation, the City will

cease attempts to administer an alcohol test and the appropriate supervisor must immediately document the reasons that the alcohol test was not administered; this report must be promptly forwarded to the Director of Human Resources.

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

- An alcohol test measures the employee's alcohol concentration at less than 0.02; or
- 24 hours have elapsed since the reasonable suspicion observation was made.

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

d. **Random Testing.** Drivers are selected for random, unannounced drug and alcohol testing using a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with the employee's Social Security number, payroll identification number, or other comparable identifying numbers. Each driver subject to this policy will have an equal chance of being tested each time random selections are made. The number of drivers randomly selected will be in accordance with applicable DOT regulations. Each driver randomly selected for testing will be tested during the selection period. Dates and times for random testing are unannounced and spread reasonably throughout the calendar year. Each driver selected for random testing must proceed to the test site immediately after notification; if,

however, the driver is performing a safety-sensitive function, other than driving a CMV, at the time of notification, the City will instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible. A driver will be randomly tested for alcohol just before, during, or just after performing, safety sensitive functions; random testing for drugs does not have to be conducted in immediate time proximity to performing safety sensitive functions.

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

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

to undergo a medical exam or evaluation as directed by the physician medical review officer (MRO) as part of the verification process).

Additional Information About Alcohol Testing.

a. **Consequences of a Positive Alcohol Test.** An employee who is tested and has an alcohol concentration of 0.04 or greater will be removed from safety sensitive functions and may be terminated. An employee who is tested and has an alcohol concentration of .02 to.039 will not be permitted to perform safety sensitive functions for a minimum of 24 hours and will be disciplined, up to and including termination. If not terminated, then the employee will receive a mandatory referral to a substance abuse professional. Any non-compliance with the treatment recommendations of the substance abuse professional will result in disciplinary action, up to and including termination. (The employee will be placed on administrative leave without pay during the treatment period. That employee may use accrued sick leave during the treatment period.)

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

Additional Information About Drug Testing.

a. **Drug Testing Procedures.** Drug testing is conducted by analyzing a driver’s urine specimen at a lab certified by the U.S. Department of Health and Human Services. The driver provides a specimen in a location that affords privacy and the “collector” seals and labels the specimen, completes a chain of custody document, and prepares the

specimen and accompanying paperwork for shipment to a drug-testing lab. “Split” urine specimens provide drivers with an opportunity for a second test, if needed. If the driver challenges the validity of the test, then the employee has 72 hours to request that the split specimen be sent for testing to another certified lab approved by the City’s Director of Human Resources. The second test will be at the driver’s own expense.

b. **Drugs Tested For.** DOT requires testing for the following drugs:

- Marijuana (THC)
- Cocaine
- Amphetamines
- Opioids
- Phencyclidine (PCP)

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

c. **Review of Drug Test Results.** All positive drug test results are reviewed and interpreted by a physician medical review officer (MRO) before they are reported to the City. If the lab reports a positive result to the MRO, the MRO will contact the driver (either in person or by phone) and will conduct an interview to determine if there is an alternative medical explanation for the drug(s) found in the driver’s urine specimen. If the driver provides appropriate documentation and the MRO determines that it is a legitimate medical use of the prohibited drug(s), the drug test result is reported as a negative to the City.

d. **Consequences of a Positive Drug Test.** A driver will be removed from safety

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

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

Information From Prior Employers. For new hires, promotions and transferred employee-drivers seeking to perform safety sensitive functions for the first time, the City is required, with the driver's written consent, to obtain information from previous employers regarding alcohol test results of 0.04 or greater, verified positive drug test results, refusals to test (including verified adulterated or substituted drug test results), and any other violation of DOT drug and alcohol testing regulations within the two years prior to the date of the driver's application, promotion or transfer. Affected individuals must sign a Breath Alcohol and Drug Testing Results Request. The City will obtain and review the information before allowing the person to perform safety sensitive functions. If the City receives any such information about an applicant-driver, the applicant will not be hired; if such information is received about an employee seeking promotion or transfer, the employee will not be promoted or transferred to the driver position and may also receive disciplinary action, up to and including termination of employment. The City

will maintain a written, confidential record of the information it obtains and/or the good faith efforts it made to obtain the information. This information will be retained for a minimum of 3 years. The City will also ask if the person has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the driver applied for, but did not obtain, safety sensitive transportation work covered by a DOT agency drug and alcohol testing rules during the past 2 years. If the person admits to such conduct, the person will not be allowed to perform safety sensitive functions for the City. If the driver refuses to provide the City with the required written consent, the driver will not be permitted to perform safety sensitive functions and will likely be disciplined (up to and including termination of employment) if employed, or not hired if applying for employment.

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

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

Employee Admission of Drug/Alcohol Use. An employee who admits to alcohol misuse or drug use must do so in accordance with the City's general Drug and Alcohol Use Policy; provided, however, the employee may not self-identify in order to avoid the testing requirements of this DOT policy. Further, the employee must make the admission prior to performing a safety sensitive function, i.e., prior to reporting for duty. The employee may not perform a safety sensitive function until the City is satisfied that the employee has been evaluated and has

successfully completed educational or treatment requirements in accordance with the City's general Drug and Alcohol Use Policy. A drug and alcohol abuse evaluation expert, *i.e.*, an EAP professional, a substance abuse professional or a qualified drug and alcohol counselor, will determine successful completion. Prior to the employee performing safety sensitive functions, the employee must undergo a return to duty alcohol test with a result of less than 0.02 and/or a return to duty drug test with a negative test result.

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

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

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

Questions. Anyone with questions regarding this policy should contact the Director of Human

Resources.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AMENDING CHAPTER 2 OF THE BIG SPRING CITY CODE ENTITLED “ADMINISTRATION,” SECTION 2-196 “PAYMENT CARD FEES AND SERVICE CHARGES” BY ADDING A NEW SUBSECTION (c-1) AUTHORIZING AND DIRECTING MUNICIPAL COURT OFFICIALS TO CHARGE A CARD REIMBURSEMENT FEE SPECIFIED BY THE CITY COUNCIL OR THE CITY MANAGER; PROVIDING FOR EXPIRATION OF THIS PROVISION ON JANUARY 9, 2023; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, City Council previously passed Ordinance 013-2020 concerning payment card fees; and

WHEREAS, payment cards, as detailed in Ordinance 013-2020, also include prepaid cards; and

WHEREAS, State law provides: “The governing body of a municipality shall set the reimbursement fee in an amount that is reasonably related to the expense incurred by the municipal official in processing the payment by credit card. However, the governing body may not set the fee authorized by this subsection in an amount that exceeds five percent of the amount of the fee, fine, court cost, or other charge being paid,” Section 132.003(b), Texas Local Government Code; and

WHEREAS, City Council finds it advisable to adopt the ordinance as provided below;

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

SECTION 1. Chapter 2, entitled “Administration,” Article V, “Finance,” Division 4, “Miscellaneous,” Section 2-196 “Payment card fees and service charges,” is hereby amended by adding a new subsection “c-1” to read as follows:

Sec. 2-196. Payment card fees and service charges.

...

(c) Amount of card reimbursement fee. Officials collecting payments for charges from members of the public shall not charge a card reimbursement fee. A card reimbursement fee shall not be charged to any customer that pays a charge via the Internet, online IVR (Interactive Voice Response) or a kiosk location.

(c-1) Subsection (c) shall not apply to fines, fees, and charges assessed by the Municipal Court. Officials of the Municipal Court shall charge a card reimbursement fee in an amount and under conditions as specified by the City Manager or by official action of City Council. This subsection will expire January 31, 2023 at 5:00 p.m.

...

NOTE* Language to be added appears underlined and language to be deleted is ~~stricken~~.

SECTION 2. Should any section, paragraph, sentence, clause, phrase, or word of this ordinance be declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 4. The City Secretary is hereby ordered and directed to cause the descriptive caption as well as the penalties for violation of this ordinance to be published as required by law.

SECTION 5. This ordinance shall take effect immediately after its publication in accordance with the provisions of the Charter of the City of Big Spring, and it is accordingly so ordained.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the 14th day of December, 2021 with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the 11th day of January, 2022 with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AMENDING CHAPTER 2 OF THE BIG SPRING CITY CODE ENTITLED "ADMINISTRATION," BY ADDING A NEW SECTION 2-197 ENTITLED "OFFICIAL BONDS" TO ESTABLISH THE AMOUNT OF VARIOUS BONDS FOR CITY OFFICIALS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The Charter of the City of Big Spring states: "Every person elected by the electors [voters] of said city, or appointed by the City Council or the City Manager to fill any office under the city administration... shall furnish bond with good and sufficient security to be approved by the Council in such form and amount as shall be prescribed by the Council," Article VI, Section 11; and

WHEREAS, Under state law, "In a suit arising from the defalcation of a public officer or the misapplication or misappropriation of money by a public officer, the official bond of the officer inures to the benefit of a person aggrieved by the defalcation or misapplication or misappropriation occurring in the period covered by the bond," Section 604.006, Texas Government Code; and

WHEREAS, City Council finds it necessary to adopt the following ordinance;

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

SECTION 1. Chapter 2 of the Big Spring City Code entitled "Administration," Article V, "Finance," Division 4, "Miscellaneous," is hereby amended to add a new Section 1-197 entitled "Official Bonds" which shall read in its entirety as follows:

Sec. 1-197. Official Bonds.

- (a) Each Elective Officer, the City Manager, the City Attorney, each Municipal Court Judge, the City Secretary, and each department head shall furnish an official bond upon taking the oath of office. Each bond shall be payable to the City of Big Spring. Each bond shall be procured from a solvent surety company authorized to do business in the State of Texas. The premiums to such surety company shall be paid by the City of Big Spring.
- (b) Each official bond shall be in an amount to be determined by City Council, but in no event less than fifteen thousand dollars (\$15,000.00).
- (c) City Council or the City Manager may require additional officers of the City to furnish bond under this section.

(d) Official bonds of the City shall be kept on file with the City Secretary.

NOTE* Language to be added appears underlined and language to be deleted is ~~stricken~~.

SECTION 2. Should any section, paragraph, sentence, clause, phrase, or word of this ordinance be declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 4. This Ordinance shall take effect immediately after passage in accordance with the provisions of the Charter of the City of Big Spring, and it is accordingly so ordained.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the 14th day of December, 2021 with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the 11th day of January, 2021 with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

City of Big Spring

Purchasing and Material Control

Memorandum

To: Honorable Mayor, City Council, City Manager

From: Sandy Smith, Finance Director

Date: January 5, 2022

Subject: Request for Bid Award for Lease Purchase Financing for Capital Items

On Monday, January 3, 2022, the City of Big Spring accepted sealed bids for **Lease Purchase Financing** for budgeted capital expenditure items. We contacted six (6) vendors and received responses from six (6). A bid tabulation sheet has been prepared and is attached to this memo for your consideration in making the award.

Recommendation: The staff recommends the bid be awarded to Bank Funding, LLC which is offering financing at a fixed rate of 1.45% for the term of the loan.

Lease / Purchase Financing Services (Bid No: #22-015 Bid Tabulation)

<i>Company</i>	<i>Interest Rate</i>
Baystone Govt Finance	2.300%
Signature Public Funding	1.806%
Bank Funding, LLC	1.450%
First American Equipment Finance	1.915%
Key Government Finance, Inc.	1.820%
Clayton Holding, LLC	1.693%

2019-20 Lease Financing Evaluation

Responsiveness to RFP Requirements

<u>Interest Rate</u>	<u>{ Referecnes</u>	<u>Amortization Schedule</u>	<u>Financial Statements</u>	<u>Proposed Agreement }</u>	<u>Reimbursement</u>	<u>Experience-size of division, gov't references, COBS experience</u>	<u>Total</u>
60%		{ 20% }				20%	

Baystone Govt Finance KS State Bank	35.000%	4.00%	4.00%	4.00%	4.00%	4.00%	City of Beaumont City of Santa Fe City of Rio Grande City Park Board City of Galveston	75%
	2.300%	✓	✓	✓	✓	no		
Signature Public Funding	50%	4.00%	4.00%	2.00%	4.00%	4.00%	City of Edinburg City of Rowlett City of Del Rio	88%
	1.806%	✓	✓	Credit Ratings Overview	✓	<small>for any cost associated with the Equipment, the RFP or the Lease financing, intent for reimbursement from the Lease Proceeds must be evidenced and must qualify under the Treasury Regulation Section 1.150.2.</small>		
Bank Funding, LLC	60%	4.00%	4.00%	0.00%	4.00%	4.00%	Wicomico County BOE, MD Lower Allen Township, PA Manalapan-Englishtown RSD, NJ Ton of Babylon, NY County of Vance, NC	96%
	1.450%	✓	✓	no	✓	<small>for any cost associated with the Equipment, the RFP or the Lease financing, intent for reimbursement from the Lease Proceeds must be evidenced and must qualify under the Treasury Regulation Section 1.150.2.</small>		
First American Equipment Finance	40%	4.00%	4.00%	2.00%	4.00%	4.00%	Harlingen Consolodated ISD Belton ISD	78%
	1.915%	✓	✓	Credit Ratings Overview	✓	✓		
Key Government Finance, Inc	45%	4.00%	4.00%	4.00%	4.00%	0.00%	Prior Finance Agreement (2018) Current Vendor	81%
	1.820%	no	✓	no	✓	no		
Clayton Holdings, LLC	55%	4.00%	4.00%	0.00%	4.00%	4.00%	City of Garden City KS City of Bloomington, IL	91%
	1.693%	✓	✓	no	✓	Reimbursement Resolution Required		

Minutes of the Board of Director's Regular Meeting
BIG SPRING ECONOMIC DEVELOPMENT CORPORATION
Tuesday, November 16, 2021, 12:00 p.m.
Offices of the Big Spring Economic Development Corporation
215 West Third Street, Big Spring, Texas

The Regular Meeting of the Board of Directors of the Big Spring Economic Development Corporation was called to order at 12:01 p.m. Tuesday, November 16, 2021, in the offices of the Big Spring Economic Development Corporation. The following notice was sent on November 12, 2021, to all Directors, the news media, and duly posted on November 12, 2021, by Teresa Morris in compliance with the Open Meeting's Act by posting it on the outside door of the Big Spring Economic Development Corporation and on the inside and outside of City Hall.

"The Board of Directors of the Big Spring Economic Development Corporation will hold a Regular Board Meeting on Tuesday November 16, 2021, at 12:00 p.m. in the offices of the Big Spring Economic Development Corporation, 215 West Third Street, Big Spring, Texas. The purpose of the meeting is: Public Comment, Action on Minutes of the October 28, 2021, Special Meeting, Action to Approve October Investment and Financials Report, Welcome New Board Member Mr. Cody Williams, Election of Officers, Appointment of Committee Chairs by President, Action to Participate in Howard County Leadership Summit and Direct Staff to Post an Agenda, Directors Report, Board Comment, and Adjourn".

Directors Present:

Mr. Raul Benavides- President
Mr. Shane Seaton- Vice President
Mr. Jeff Ward
Mr. Cody Williams

Directors Absent:

Paschal Odom- Secretary/Treasurer

Staff Present:

Mr. Mark Willis
Mrs. Teresa Morris

Guests that signed in: Roger Cline, Nick Ornelas

AGENDA ITEM #1 – Call to Order/Invocation and Pledge:

Mr. Benavides called the meeting to order at 12:01 p.m. Mr. Benavides led the invocation and pledge.

ACTION ITEM #2- Public Comment:

None

AGENDA ITEM #3- Action on Minutes of the October 28, 2021, Special Meeting:

Mr. Benavides presented the Minutes. Motion to accept the Minutes was made by Mr. Ward seconded by Mr. Seaton. The motion passed 4 to 0 with all members present voting "aye" in favor of the motion.

AGENDA ITEM #4- Action to Approve October Investment & Financial Report:

Ms. Morris presented the Investment and Financials. Motion to approve the Investment & Financial Report was made by Mr. Ward seconded by Mr. Seaton. The motion passed 4 to 0 with all members present voting "aye" in favor of the motion.

ACTION ITEM #5- Welcome New Board Member:

Mr. Benavides introduced and welcomed Mr. Cody Williams as the new Board Member

ACTION ITEM #6- Election of Officers:

Mr. Benavides made a nomination to elect Mr. Seaton as President. Mr. Ward made a nomination to elect Mr. Benavides as Secretary/Treasurer. Mr. Benavides made a nomination to elect Mr. Ward as Vice President. Mr. Ward made a motion to elect Mr. Seaton as President, Mr. Ward as Vice President and Mr. Benavides as Secretary/Treasurer, seconded by Mr. Williams. The motion passed 4 to 0 with all members present voting "aye" in favor of the motion.

ACTION ITEM #7- Appointment of Committee Chairs by President:

Mr. Seaton asked for volunteers for each committee: Mr. Ward volunteered for Industry Attraction and Recruitment, Mr. Williams volunteered for Industry Retention and Expansion and Mr. Benavides volunteered for Workforce Development.

ACTION ITEM #8- Action to Participate in Howard County Leadership Summit and Direct Staff to Post an Agenda:

Mr. Willis requested EDC participation in the Howard County Leadership Summit and directions to post and agenda for the event. Motion to participate and post and agenda for the Summit was made by Mr. Benavides seconded by Mr. Ward. The motion passed 4 to 0 with all members present voting "aye" in favor of the motion.

ACTION ITEM #9- Directors Report:

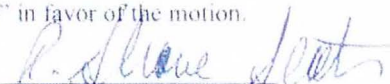
Projects: The Big Spring \$5million Economic Development Agency grant application was denied due to changing parameters. The EDC staff participated in a meeting with City and Council of Governments staff to reformulate the application. The revised application will be submitted at the next window of opportunity, December 9th, assuming City Council approval. The request will be under \$1.5 million to meet the new guidelines. City and EDC staff met with Compute North to discuss changes in their expansion plans and a new analysis/incentive recommendation will follow. Staff is working with all governmental entities to coordinate a Howard County Leadership Summit tentatively scheduled for December 6th at Howard College. Staff worked with various entities to support a job fair targeted, but not limited to, people affected by the closing of the GEO system (approximately 600 jobs) at the end of November. The updated EDC website has gone live. The EDC client in arrears concerning a loan expects to begin weekly repayments to the EDC before the end of the year. The EDC Director attended the High Ground Annual Conference in Amarillo. The EDC Associate Director attended EDI courses in Fort Worth. The City is still in negotiations with GEO and ICE. **Meetings:** Attended the monthly Chamber of Commerce Board meeting. The EDC Director participated in four City staff meetings. Staff attended two City Council meetings. The Director has been asked to participate in local curriculum development efforts as a member of the CTE Committee. The Director spoke to the Friday Rotary Club. The EDC Associate Director completed the training offered by the Economic Development Institute (EDI) through the University of Oklahoma and has received her certificate. The Director completed the process of renewing his CECED designation. The next Board meeting will be December 6th in association with the Howard County Leadership Summit (a regular meeting may be held December 21st).

AGENDA ITEM #10-Board Comments:


None

AGENDA ITEM #11- Adjourn:

Mr. Ward made a motion to adjourn, seconded by Mr. Benavides. The motion passed 4 to 0 with all members present voting "aye" in favor of the motion. Meeting adjourned at 12:34 pm on November 16, 2021.


Mr. Shane Seaton, President

ATTEST:


Mr. Raul Benavides, Secretary/Treasurer



December 21, 2021

Big Spring Fire Department
Attn: Jay Holt – Operations Chief
1401 Apron Drive
Big Spring, TX 79720

Dear Chief Holt,

I am pleased to enclose Occidental's check to the Big Spring Fire Department in the amount of \$10,000.00. It is our intent that these unrestricted funds be used toward the purchase of SCBA's and glass cutters.

Should you have any questions, please do not hesitate to contact Denise Sherrod at 713.366.5968.

Sincerely,

A handwritten signature in black ink, appearing to read 'Samantha Lombardo'. The signature is fluid and cursive.

Samantha Lombardo
Director, Community Relations & Employee Engagement



DOING THE
MOST GOOD



DATE: 1/5/22

RE: POTENTIAL DONOR/SPONSOR,

Dear Potential Donor/Sponsor,

Thank you for taking the time to consider helping your local Salvation Army where we are committed to helping needy families, and the Boys & Girls Club.

We have a beautiful ballfield that needs a little TLC! We'd like to fence in and prepare a portion of the ballfield so the kids can play outside instead of always staying inside. All we need is a simple backstop/fence so the kiddos can stand behind it without getting hit with the batter's bat and or balls. It's been brought to our attention that the city may have some fencing that we could utilize which would help keep our budget manageable.

We aren't planning to make it look like the Taj Mahal, but we are planning to treat the grass to rid it of the stink bugs, stickers and thorns so it will be safe and fun to play on.

Please will you help us?

*Majors Dean & Pamela Moretz
Corps Officer's/Administrator's/Pastor's
811 W. 5th St.
Big Spring, TX 79720
Office #432-267-8239
Cell Phone #'s (Dean) 432-352-2005 (Pam) 352-2027*



... Hoping you had a Merry Christmas and praying for a safe, healthy and Happy New Year.

Dear valued business owner:

We are pleased to continue our partnership with CGI Digital (CGI) to coordinate and produce a series of educational videos highlighting all we have to offer to residents, visitors and businesses.

With a highly visible interface on our official website homepage (www.mybigspring.com), our Video Tour will allow viewers to learn more about area attractions, quality of life, economic development and so much more.

We know businesses play a critical role in our city's vitality. This program presents a sponsorship opportunity for local businesses to greatly enhance their online presence. In addition, the Video Tour on our website will backlink to CGI's www.elocallink.tv which hosts the videos, providing increased exposure for all participants.

We encourage you to consider being a part of this initiative. To learn more about sponsorship opportunities or to request an appointment please email Vice President, Brandon Bartz, at brandonb@cgicompany.com.

Thank you for being a part of what makes Big Spring a great place to live, learn, work and play.

Sincerely,

(wet signature)

Name

Title



Name: Miklos Szabo
Title: IT Manager
Address: 310 Nolan St.
City, State, Zip: Big Spring, TX 79720
Phone number: (432)264-2518
Email: mszabo@mybigspring.com
Website: www.mybigspring.com

This Agreement is between CGI Communications, Inc. D/B/A CGI Digital ("CGI") and the City of Big Spring (the "City") and shall remain in effect from the date it is signed by both parties until the third anniversary of the date that the completed and approved Community Video Program is made available for viewer access on different devices via a link on the www.mybigspring.com homepage, including any alternate versions of that homepage.

During the term of this Agreement, CGI shall:

- Produce a total of 6 video chapters with subject matter that includes but is not limited to: Welcome, Education, Healthy Living, Homes / Real Estate, and a Community Organizations chapter to promote charities, nonprofits, and community development organizations
- Provide script writing and video content consultation
- Send a videographer to City locations to shoot footage for the videos
- Reserve the right to use still images and photos for video production
- Provide all aspects of video production and editing, from raw footage to final video including professional voiceovers and background music
- Provide a final draft of Community Video Program content subject to City's approval (up to 3 sets of revisions allowed). CGI's request for approval of content or revision, including final draft, shall be deemed approved if no response is received by us within 30 days of request
- Provide our patented OneClick™ Technology and encode all videos into multiple streaming digital formats to play on all computer systems, browsers, and Internet connection speeds; recognized player formats include WindowsMedia™ and QuickTime™
- Store and stream all videos on CGI's dedicated server
- Afford businesses the opportunity to purchase various digital media products and services from CGI and its affiliates
- Feature business sponsors around the perimeter of video panels
- Be solely responsible for sponsorship fulfillment including all related aspects of marketing, production, printing, and distribution
- Facilitate viewer access of the Community Video Program from City website, including any alternate versions of City's homepage, for different devices, by providing HTML source code for a graphic link to be prominently displayed on the www.mybigspring.com website homepage as follows: "Coming Soon" graphic link designed to coordinate with existing website color theme to be provided within 10 business days of execution of this Agreement. "Community Video Program" graphic link to be provided to replace the "Coming Soon" link upon completion and approval of videos
- Grant to City a license to use CGI's Line of Code to link to and/or stream the videos
- Own copyrights of the master Community Video Program
- Assume all costs for the Community Video Program

Program add-ons will include:

- Multiple segments of aerial footage pending approval from FAA and any airports within a 5 mile radius of filming location(s)

During the term of this Agreement, the City shall:

- Provide a letter of introduction for the program on City's letterhead
- Assist with the content and script for the Community Video Program
- Grant CGI the right to use City's name in connection with the preparation, production, and marketing of the Community Video Program
- Display the "Coming Soon" graphic link prominently on the www.mybigspring.com homepage within 10 business days of receipt of HTML source code
- Display the "Community Video Program" link prominently on its www.mybigspring.com homepage, including any alternate versions of your home page, for viewer access on different devices for the entire term of this Agreement
- Ensure that this Agreement remains valid and in force until the agreed upon expiration date, regardless of change in administration
- Grant full and exclusive streaming video rights for CGI and its subsidiaries, affiliates, successors and assigns to stream all video content produced by CGI for the Community Video Program
- Agree that the City will not knowingly submit any photograph, video, or other content that infringes on any third party's copyright, trademark or other intellectual property, privacy or publicity right for use in any video or other display comprising this program.

This Agreement constitutes the entire Agreement of the parties and supersedes any and all prior communications, understandings and Agreements, whether oral or written. No modification or claimed waiver of any provision shall be valid except by written amendment signed by the parties herein. City warrants that it is a tax exempt entity. The undersigned, have read and understand the above information and have full authority to sign this Agreement.

Big Spring, TX

CGI Communications, Inc. D/B/A CGI Digital

Signature:

Name (printed):

Name (printed): Nicole Rongo

Title:

Title: Vice President, Government Relations & Strategic Partnerships

Date:

Date: 1/3/21



130 East Main Street, 5th Floor
Rochester, NY 14604

Phone: 800.398.3029
Fax: 585.653.7393

GET THE MOST OUT OF YOUR VIDEO TOUR!

WEBSITES

- Feature the Video Tour on the official community homepage
- Provide video tour for your:
 - Chamber of Commerce
 - Economic Development Agencies
 - Main Street Association
 - Convention and Visitor's Bureau
 - Other websites that aid in the promotion of the area

EMAIL/TEXT

- Embed video link into email signatures
- Send specific video chapters to residents, visitors and businesses

SOCIAL MEDIA

- Facebook
- Instagram
- Twitter
- LinkedIn
- Internal departments social media platforms

Pro-tip

Share your videos at least once a month on social media platforms to reach new audiences!

OTHER

- Play videos on your local cable access channel
- Play videos prior to State of the City Address, meetings, and presentations
- Share Video Tour with local real estate agencies and school districts
- Local businesses, non-profits, and organizations can also feature the Video Tour on their website and social media platforms

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS TO SET THE ROTATION PERIOD OF MEMBERS OF CITY COUNCIL TO VERIFY AND AUDIT PAYMENT VOUCHERS TO A MONTHLY BASIS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Under the Charter of the City of Big Spring, Article IX, Section 3, new payment warrants of the City may be issued only as “audited and allowed by the City Council;” and,

WHEREAS, Members of City Council have the practice of regularly verifying and auditing the City of Big Spring’s payment vouchers on a biweekly rotating basis; and

WHEREAS, Monthly billing is common for services received by the City; and

WHEREAS, It is the sense of City Council that the rotation of Members of City Council to verify and audit payment vouchers should be on a monthly basis; and

WHEREAS, City Council finds it advisable to adopt the following;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AS FOLLOWS, THAT:

SECTION 1. Each Member of City Council shall verify and audit payment vouchers of the City of Big Spring for an entire calendar month, on a rotating basis. A Member of City Council may agree to exchange months with another Member of City Council.

SECTION 2. All resolution or parts of resolutions in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 3. This Resolution shall take effect February 1, 2022.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the **11th** day of **January, 2022** with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the 25th day of January, 2022 with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AMENDING THE BIG SPRING ECONOMIC DEVELOPMENT CORPORATION BY AMENDING THE NUMBER OF DIRECTORS AND THE MANNER OF APPOINTMENT OF DIRECTORS; AND PROVIDING FOR RULES OF PROCEDURE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a development corporation's bylaws (such as Big Spring EDC's bylaws) are adopted by its board of directors, must be consistent with state law and the certificate of formation, and be approved by the governing body (such as the City Council of Big Spring) of the authorizing unit (such as the City of Big Spring), under Section 501.064, Texas Local Government Code; and

WHEREAS, references to "articles of incorporation" mean the corporation's certificate of formation, under Section 501.011, Texas Local Government Code; and

WHEREAS, a development corporation's authorizing unit, in its sole discretion, may in accordance with state statutes alter the development corporation's structure, organization, program, or activities, under Section 501.401, Texas Local Government Code; and

WHEREAS, the board of directors of a development corporation may file with the governing body of the corporation's authorizing unit a written application requesting that the authorizing unit approve an amendment to the certificate of formation, under Section 501.301, Texas Local Government Code; and

WHEREAS, the governing body of the authorizing unit of a corporation, at the unit's sole discretion, may in accordance with the Texas Local Government Code amend the corporation's certificate of formation at any time by: (1) adopting the amendment by resolution; and (2) delivering the certificate of amendment to the secretary of state, Section 501.302, Texas Local Government Code; and

WHEREAS, City Council finds it advisable to adopt the following resolution; and

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, THAT:

SECTION 1. City Council adopts an amendment to the Articles of Incorporation for the Big Spring Economic Development Corporation as indicated in Exhibit A.

SECTION 2. City Council directs the City Secretary to file the Certificate of Amendment, in Exhibit A of this resolution, with the Secretary of State.

SECTION 3. Resolution 024-2021 is hereby repealed.

SECTION 4. This resolution shall take effect immediately after passage in accordance with the provisions of the Charter of the City of Big Spring.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the **11th** day of **January, 2022** with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the **25th** day of **January, 2022** with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

**EXHIBIT A
CERTIFICATE OF AMENDMENT**

**CERTIFICATE OF AMENDMENT TO THE
CERTIFICATE OF FORMATION OF
BIG SPRING ECONOMIC DEVELOPMENT CORPORATION
A NON-PROFIT CORPORATION**

This certificate of amendment is submitted for filing pursuant to the applicable provisions of the Texas Business Organizations Code and the Texas Local Government Code.

Article I - Entity Name and Type

The name of the entity as shown in the records of the secretary of state and the type of filing entity are: Big Spring Economic Development Corporation, a Texas non-profit corporation (hereinafter "Big Spring EDC"), organized pursuant to Subtitle C1, Title 12, Texas Local Government Code. The Big Spring EDC's date of formation is September 4, 1990, and its assigned file number is 116552701.

Article II - Amended Registered Agent/Registered Office

The article stating the name of the registered agent and identifying the registered office of the Big Spring EDC is amended to read as follows:

The registered agent is an individual resident of the state whose name is Tami L. Davis. Tami L. Davis has consented in a written or electronic form to serve as the registered agent of the entity. The business address of the registered agent and the registered office address is: 310 Nolan Street, Big Spring, Texas 79720.

Article III - Other Amendments to Certificate of Formation

Set forth below is an identification by reference or description of each added, altered, or deleted provision.

1. The certificate of formation is amended by the alteration or addition of the provisions identified or referenced below. A full text version of each altered provision so identified or referenced follows:

Article VI
Directors

- A. The affairs of the Corporation shall be managed by a Board of Directors. The initial Board of Directors of the Corporation were:
 1. Owen Ivie, P.O. Box 869, Big Spring, Texas 79721, initial term expired 8-31-93.
 2. Steve Fraser, 208 W. 3rd, Big Spring, Texas 79720 initial term expired 8-31-93.
 3. Jeff Morris, P.O. Box 1311, Big Spring, Texas 79721, initial term expired 8-31-92.

4. Hooper Sanders, P.O. Box 871, Big Spring, Texas 79721 initial term expired 8-31-92.
 5. Jim Purcell, P.O. Box 1271, Big Spring, Texas 79721 initial term expired 8-31-91.
- B. The number of Directors constituting the Board of Directors of the Corporation is seven (7). A change in the number of Directors may only be made by amendment to the Articles of Incorporation.
- C. Each City Councilmember of the City Council of Big Spring may nominate one (1) member of the board subject to the confirmation by majority vote of the Council.
- D. Each Director shall represent the interests of the City of Big Spring first.
- E. To be eligible to serve on a board as a Director, a person shall:
1. Be 18 years or older; and
 2. Be a registered voter in Howard County, Texas; and
 3. Unless appointed prior to May 1, 2021, represent a specific City Council District or the City by:
 - (a) Being a registered voter in the district represented by the Council Member making the nomination, or in the City of Big Spring for the Director nominated by the Mayor; or
 - (b) Owning 50% or more of one or more parcels of taxable real property in the district represented by the Councilmember making the nomination, or in the City of Big Spring for the Director nominated by the Mayor (mineral rights do not meet this requirement); or
 - (c) Being a holder of water service from the City of Big Spring with a service address in the district represented by the Councilmember making the nomination, or in the City of Big Spring for the Director nominated by the Mayor, or owning in such district a business which is a water customer when the person owns 50% or more of the business.
 4. A current City Councilmember may not serve on the board. Elected officials of the City, County, State or Federal Government are ineligible to serve as directors. A person may not serve on the board at the same time the person is serving on a board defined in Article 2, "Administration," Article VII, "Boards and Commissions" of the Big Spring City Code of Ordinances.
 5. No person may serve on a board if they are related to a City Councilmember of the City Council of the City of Big Spring within the third degree of

consanguinity or within the second degree of affinity, as defined by Texas Government Code, Chapter 573, unless appointed prior to May 1, 2021.

- F. Reserved.
- G. Reserved.
- H. A Director who ceases to meet the eligibility requirements is considered to have automatically vacated the office.
- I. A vacancy that arises shall be filled by nomination by the City Councilmember representing the district that the board seat represents, or by the Mayor in the case of the Mayor's board seat, subject to confirmation by a majority of City Council.
- J. Each Director serves a term ending on September 30 three years after the Councilmember's Charter-specified general election date for the Councilmember's current term. The terms of Directors appointed prior to May 1, 2021 are not changed.
- K. An appointment to a vacancy on a board fills the unexpired term of the Director, if any.
- L. A Director whose seat is not filled by official action of City Council sixty (60) days after the end of the term of the Director shall be deemed to be reappointed.
- M. A Director may be removed at any time and for any reason by City Council.
- N. Directors shall meet at least one (1) of the following qualifications:
 - 1. serve, or have served, as chief executive officer of a company;
 - 2. serve, or have served, in a position of executive management of a company;
 - 3. serve, or have served, in a professional capacity; or
 - 4. have experience equivalent to any of the above qualifications.
- O. Directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their duties as Directors.
- P. The quorum of a board necessary to meet and deliberate shall be four (4) directors.
- Q. A majority of a quorum present shall be necessary to transact business.
- R. The following shall apply to the board:
 - 1. The Texas Open Meetings Act;

2. The Texas Public Information Act; and
 3. Ethical disclosure requirements including under Chapter 171 of the Texas Local Government Code.
- S. The board shall elect its own chair and vice chair.
- T. The board shall set its own rules of procedure. If the board does not act to set its rules of procedure, the board shall follow the rules contained in the current edition of Robert's Rules of Order Newly Revised when they are applicable and in which they are not inconsistent with prevailing law, the following special rules of order, and any other special rules the board may adopt:
- a. The board shall be a small board under Robert's Rules, except that motions shall require a second.
 - b. The Mayor, City Council, the City Manager, and the City Attorney of the City of Big Spring shall have the right to speak at board meetings.
 - c. Meetings may adopt a regular schedule or be called by action of the board. Additional meetings may be called by the chair or the vice chair.
 - d. The Board shall appoint a person to take minutes.
- U. The board shall transmit its minutes to City Council once per month, except if it has not met in a given month.
- V. Once per month, a person designated by the board shall present an oral or written report to City Council in addition to the board's minutes, except if it has not met in a given month.
- W. The board may recommend to City Council such policies within the scope of the board as it may deem necessary or advisable.
- X. The members of the board who were appointed as of May 1, 2021 shall retain their current terms according to their appointments under the prior language of Article VI, unless removed earlier by City Council.

Article XIII Expenditures

After approving an economic development incentive, but prior to funding said incentive, the Corporation shall submit the proposed incentive to the Big Spring City Council for approval in a record vote of the Council.

Article IV - Approval of Amendments

This filing amending the certificate of formation has been approved in the manner required Section 501.302, Texas Local Government Code.

Article V - Effective Date of Filing

This Certificate of Amendment to the Certificate of Formation becomes effective when the document is filed by the secretary of state.

Article VI - Execution

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Date: _____, 2021

Adopted by the City Council of Big Spring,
effective January 12, 2022.

City of Big Spring, Texas

By: _____
Shannon D. Thomason, Mayor

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, APPROVING AND ADOPTING NEW DISTRICT BOUNDARIES FOR THE ELECTION OF CITY COUNCIL MEMBERS; PROVIDING AN EFFECTIVE DATE

WHEREAS, on the 11th and 25th days of January, 2022, came on to be considered the issue of periodic redistricting of political boundaries. This City Council has, in due time, given deliberate consideration to the legal issues and governmental duties imposed by state and federal law. In addition, the City Council has previously entered in the minutes, criteria adopted by resolution by which any redistricting plan would be considered. The prior Resolution adopting said criteria is incorporated as Exhibit 1, "Resolution Adopting Criteria;" and

WHEREAS, the City Council has commissioned and received an Initial Assessment by qualified professionals experienced in the field of redistricting law for the purpose of making a preliminary determination of population distribution between the six City Council districts, and the obligation to comply with "one-person-one-vote" balance as required by applicable state and federal law. This assessment has been filed in the minutes of this city, and is incorporated as Exhibit 2. A finding, based upon this assessment, recognized the legal duty to redraw political boundaries to comply with applicable law, and a copy of this finding is entered into the minutes of this City, and this prior finding is incorporated into this Resolution as Exhibit 2, "Resolution Requiring Redistricting;" and

WHEREAS, after convening in Public Hearing for comment upon any and all proposed plans, and after meeting in open session for the purpose of considering alternatives available to the City for modification of existing political boundaries in a manner designed to achieve both acceptable levels of numerical balance between the six City Council districts, and to protect the voting rights of all residents of the City of Big Spring, Texas, the City Council has determined to adopt the redistricting plan attached to this Resolution in map and data form, Exhibit 3, "Plan _____;"

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

SECTION 1: That the Redistricting Plan depicted in the map and data attached to this Resolution as Exhibit 3 are hereby approved and adopted by the City Council of the City of Big Spring, Texas.

SECTION 2. That the City Manager or his designee is hereby instructed to send a copy of this Resolution and the amended City Council Member district maps and legal descriptions to the proper officials of Howard County as required by the Texas Election Code.

SECTION 3. That the recitals contained in the preamble are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as part of the judgment and finding of the City Council.

SECTION 4. All resolutions or parts of resolutions in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 6. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 7: That this Resolution shall be effective immediately upon its final passage, and the Redistricting Plan shall be in full force and effect for the May 2022 municipal election and candidates shall file and voters shall vote in accordance with this redistricting map.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the **11th** day of **January, 2022** with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the **25th** day of **January, 2022** with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

Exhibit 1: Resolution Adopting Criteria

Resolution 033-2021

RESOLUTION NO. 033-2021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, ESTABLISHING AND ADOPTING THE CRITERIA FOR SUCH REDISTRICTING OF POLITICAL BOUNDARIES FOR THE CITY OF BIG SPRING; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY

WHEREAS, the City of Big Spring has previously retained the firm of Allison, Bass & Associates, LLP, of Austin, Texas, to conduct an Initial Assessment of existing political boundaries of the City of Big Spring following the issuance of census data by the United States Census Bureau; and

WHEREAS, The City Council of the City of Big Spring shall convene in open meetings, duly posted in accordance with the Texas Open Meetings Act, to take up and consider one or more alternative plans for the legal redistricting of the City of Big Spring; and

WHEREAS, the United States Census Bureau significantly delayed the release of the 2020 census data, citing COVID-19, and City Council wishes to adopt redistricting changes promptly, and therefore City Council finds it necessary to consider this an emergency measure, so that the requirement of two readings before this resolution is adopted is waived, and the resolution may be adopted after one reading;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS;

SECTION 1. The City Council of the City of Big Spring hereby adopts **Exhibit A** as its official criteria for redistricting.

SECTION 2. City Council finds that the passage of this resolution constitutes an emergency and an imperative public necessity that the Charter Rule requiring that City resolutions must be read at two separate meetings of the City Council be suspended and said rule is hereby suspended.

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

PASSED AND APPROVED on emergency reading at a special meeting of the City Council on the **8th** day of **December, 2021**, with all members present voting “aye” for the passage of same.


Shannon D. Thomason, Mayor

ATTEST:



Tami L. Davis, City Secretary

EXHIBIT A

ESTABLISHING CRITERIA FOR REDISTRICTING OF POLITICAL BOUNDARIES

Any plan for the redistricting of the single-member districts from which representative members of the executive body of the City of Big Spring are elected should, to the maximum extent possible, conform to the following criteria:

1. The plan should ensure that all applicable provisions of the U.S. and Texas Constitutions, the Voting Rights Act, and the Texas Election Code are honored.
2. The plan should be drawn in such a manner that the maximum deviation from an ideal size, as determined by dividing the total population of the city by the number of single member districts that compose the City Council of the City of Big Spring be not more than plus or minus five (5%) percent for any individual single member district, or a total top to bottom deviation (percentage of deviation below and above the ideal size) between the most populated district and the least populated district by not more than a maximum deviation of no more than ten (10%) percent.
3. The plan should address minority representation, and if at all possible, in conformity with constitutional standards, avoid retrogression in the percentage of population and voting age demographics consistent with existing minority representation.
4. The plan should, avoid fragmentation and preserve minority communities of interest to the maximum extent possible. These communities of interest should be recognized and retained intact where possible. Only when the overall minority population of the county is sufficiently large to require more than one minority district should minority populations be divided, and only then to the least degree possible.
5. The plan should not, however, attempt to unreasonably join geographically remote minority populations into a single precinct unless there are strong and genuine connections between these communities as reflected by common schools, churches, or cultural ties. For example, minority populations in two separate neighborhoods, located miles apart, may not have sufficient links or common political cohesion to justify joining these two minority population centers into a single electoral group. Particularly when dealing with distinct minority groups, such as Black and Hispanic populations, a general assumption that separate minority populations will vote in a “block” may be unsupportable in fact.
6. The plan should seek compact and contiguous political boundaries. Physical boundaries of cultural or economic significance, such as rivers, multi-laned control access highways or turnpikes, which tend to divide populations in fundamental ways, should be recognized and where possible, should only serve as necessary to achieve recognized objectives. Communities of interest should be retained intact where possible. To the maximum extent possible, clearly recognized boundaries, such as streets and highways, should be used to facilitate ease of voter identification of boundaries, as well as election administration.

Res. 033-2021

7. Where possible, well-recognized and long used election precinct boundaries should be retained intact (within the limitations imposed by state and federal law) or with as little alteration as possible.
8. Election precincts in the plan should be sized in conformity with state law. For example, in counties that use traditional, hand counted paper ballots, no election precinct may contain more than 2000 voters. In jurisdictions with voting systems that allow for automated ballot counting, this number may be increased to as many as 5000 registered voters.
9. The plan should afford incumbent office holders with the assurance that they will continue to represent the majority of individuals who elected these incumbents, and all incumbents' residential locations should be retained in their reformed precincts to ensure continuity in leadership during the remaining term of incumbents to the extent possible.
10. The plan should address fundamental and necessary governmental functions, and to the extent possible, ensure that these functions are enhanced rather than impaired. Election administration should not be unduly complex as a result of election boundaries.
11. The plan should attempt to locate polling places in convenient, well-known locations that are accessible to disabled voters to the maximum extent possible. Public buildings should be utilized to the maximum extent possible as polling places. Where necessary, buildings routinely open to the public, such as churches, retail businesses, or private buildings dedicated to public activities, can be used as polling places.
12. If the reduction of polling places can be accomplished, without impinging upon voter convenience and minority voting rights, such reductions can be considered.
13. Citizen input should be encouraged, but in order to minimize cost and to have sufficient information to evaluate such proposals fairly, the City will only consider proposed plans submitted to the City for evaluation by individual citizens or groups if the proposed plan is submitted to the City in a commonly used GIS format, such as .SHP, .MAP, .KLM, .GPX, .MDB, along with maps and demographic data sufficient to address voting rights concerns.

The foregoing criteria are deemed to be illustrative, but not exclusive, examples of fundamentally important issues, which should be considered in any redistricting, plan. Therefore, the City Council of the City of Big Spring expresses its intention to measure any plan submitted for consideration by this set of criteria, and to base any eventual exercise of discretion upon the foregoing criteria.

Exhibit 2: Resolution Requiring Redistricting

Resolution 032-2021

RESOLUTION NO. 032-2021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, ORDERING THE REDISTRICTING OF POLITICAL BOUNDARIES FOR THE CITY OF BIG SPRING; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY

WHEREAS, the City of Big Spring has previously retained the firm of Allison, Bass & Associates, LLP, of Austin, Texas, to conduct an Initial Assessment of existing political boundaries of the City of Big Spring following the issuance of census data by the United States Census Bureau; and

WHEREAS, based upon their information, the City of Big Spring has a total maximum deviation of 25.12% and the total maximum deviation above 10% requires redistricting; and

WHEREAS, The City Council of the City of Big Spring finds that it has a legal duty to order for the redistricting of the political boundaries, and that the public interest will be served by redrawing the existing political boundaries of the City of Big Spring in such a manner as to comply with applicable state and federal laws; and

WHEREAS, the United States Census Bureau significantly delayed the release of the 2020 census data, citing COVID-19, and City Council wishes to adopt redistricting changes promptly, and therefore City Council finds it necessary to consider this an emergency measure, so that the requirement of two readings before this resolution is adopted is waived, and the resolution may be adopted after one reading;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS;

SECTION 1. The City Council of the City of Big Spring hereby adopts **Exhibit A** as its official order for redistricting.

SECTION 2. City Council finds that the passage of this resolution constitutes an emergency and an imperative public necessity that the Charter Rule requiring that City resolutions must be read at two separate meetings of the City Council be suspended and said rule is hereby suspended.

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

SECTION 4. The City Council hereby directs Allison, Bass & Associates, LLP of Austin, TX to prepare redistricting plans for City Council consideration.

PASSED AND APPROVED on emergency reading at a special meeting of the City Council on the **8th** day of **December, 2021**, with all members present voting “aye” for the passage of same.



Shannon D. Thomason, Mayor

ATTEST:



Tami L. Davis, City Secretary

EXHIBIT A

**IN THE CITY COUNCIL OF
CITY OF BIG SPRING, TEXAS**

**FINDINGS OF FACT REGARDING POLITICAL BOUNDARIES
OF CITY OF BIG SPRING, TEXAS
FOLLOWING PUBLICATION OF 2020 CENSUS DATA
AND
ORDER FOR REDISTRICTING OF POLITICAL BOUNDARIES**

On the ____ day of December, 2021, the City Council of City of Big Spring met in regular/called session, having posted notice of said hearing in compliance with Chapter 551 of the Texas Government Code.

The City Council of City of Big Spring has previously retained the firm of Allison, Bass & Magee, LLP, of Austin, Texas, to conduct an Initial Assessment of existing political boundaries of City of Big Spring, following the issuance of census data by the United States Census Bureau. Attached to this Order, and incorporated herein for all purposes by reference, is a copy of the initial assessment conducted by Allison, Bass & Magee, LLP. This assessment is based upon PL94-171 data, as required by federal law, and is further based upon information provided to Allison, Bass & Magee, LLP by the Texas Legislative Council, other official sources of information, and by City of Big Spring, Texas.

Based upon this information, City of Big Spring has a total maximum deviation of 25.12%. The term total maximum deviation is determined by dividing the total population of City of Big Spring by six, the number of City Council wards to determine an ideal ward size. The actual population of each ward is then determined, based upon the official population data contained within the census count, as defined by Public Law 94-171. The actual population of each ward is compared to the ideal ward size and a range of deviation by percentage is determined. Any total maximum deviation in excess of ten percent (10%) is presumptively unconstitutional under established federal law.

As a result of this determination, City of Big Spring has a constitutional duty to redistrict its political boundaries so as to achieve “One-Person-One-Vote” numerical balance between the six City Council wards at a legally acceptable margin of deviation, and to make such changes as are necessary to comply with the Voting Rights Act and applicable state and federal law.

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IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the City Council of City of Big Spring, Texas expressly finds that it has a legal duty to redistrict. The public interest will be served by redrawing the existing political boundaries of City of Big Spring in such a manner as to comply with applicable state and federal law. The City Council hereby enters the following findings of fact and of law:

1. City of Big Spring has a total maximum deviation, as defined in this order, of 25.12%.
2. Any total maximum deviation in excess of ten percent (10%) is presumptively unconstitutional under federal law.
3. City of Big Spring, acting by and through its City Council, is hereby resolved to immediately undertake such necessary and appropriate action to accomplish redistricting of existing City Council wards, and any incidental modification of existing, consolidated, or newly created election wards necessary to accomplish such redistricting.
4. The City Council shall henceforth convene in open meetings, duly posted in accordance with the Texas Open Meetings Act, to take up and consider one or more alternative plans for the legal redistricting of City of Big Spring.
5. After due consideration of one or more alternative plans, City of Big Spring shall adopt a plan deemed to satisfy legal requirements, and which best suits the legitimate governmental needs of City of Big Spring.
6. The adopted redistricting plan will address political boundaries of the City Council, Justice of the Peace, and Election wards of City of Big Spring, and shall remain in effect until altered or amended by subsequent Order of the City Council.

Exhibit 3: Plan

	Actual Pop.	Ideal Pop.	Deviate	Relative Deviation
Ward 1	3579	3618	-39	-1.09%
Ward 2	3662	3618	44	1.21%
Ward 3	3628	3618	10	0.27%
Ward 4	3603	3618	-15	-0.42%
Ward 5	3610	3618	-8	-0.23%
Ward 6	3628	3618	10	0.27%
Total	21710	21710		
Total Maximum Deviation	2.3%			

Total Maximum Deviation above 10% requires redistricting

Maximum Deviation less than than 5% is desirable if possible.

Ethnic/Racial Data-Total

	Anglo	Black	Am. Ind.	Asian	Hispanic	Haw/Pac Is	Other	Multi	Totals	%
Ward 1	796	295	14	37	2349	0	6	82	3579	16.49%
Ward 2	1260	161	11	26	2098	0	3	103	3662	16.87%
Ward 3	1625	295	21	40	1531	0	15	101	3628	16.71%
Ward 4	2130	158	15	84	1130	0	11	75	3603	16.60%
Ward 5	1957	131	17	78	1299	5	6	117	3610	16.63%
Ward 6	1506	173	27	21	1799	3	8	91	3628	16.71%
Total	9274	1213	105	286	10206	8	49	569	21710	100.00%
% of City	42.72%	5.59%	0.48%	1.32%	47.01%	0.04%	0.23%	2.62%	100.00%	

Ethnic %

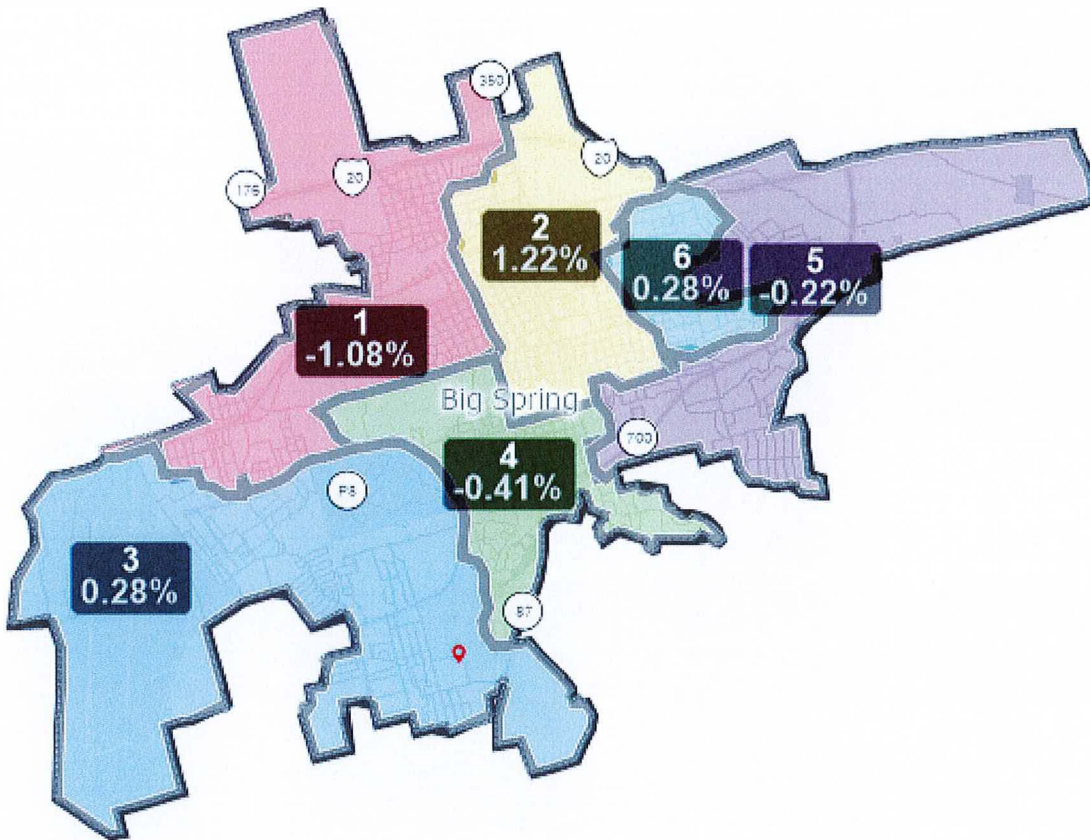
Ward 1	22.24%	8.24%	0.39%	1.03%	65.63%	0.00%	0.17%	2.29%	100.00%
Ward 2	34.41%	4.40%	0.30%	0.71%	57.29%	0.00%	0.08%	2.81%	100.00%
Ward 3	44.79%	8.13%	0.58%	1.10%	42.20%	0.00%	0.41%	2.78%	100.00%
Ward 4	59.12%	4.39%	0.42%	2.33%	31.36%	0.00%	0.31%	2.08%	100.00%
Ward 5	54.21%	3.63%	0.47%	2.16%	35.98%	0.14%	0.17%	3.24%	100.00%
Ward 6	41.51%	4.77%	0.74%	0.58%	49.59%	0.08%	0.22%	2.51%	100.00%

Voting Age Ethnic/Racial Data

	Anglo	Black	Am. Ind.	Asian	Hispanic	Haw/Pac Is	Other	Multi	Totals	%
Ward 1	638	242	14	22	1600	0	6	58	2580	16.19%
Ward 2	1008	111	9	23	1471	0	2	78	2702	16.95%
Ward 3	1325	195	9	22	972	0	15	63	2601	16.32%
Ward 4	1800	121	14	73	785	0	4	42	2839	17.81%
Ward 5	1577	92	12	60	852	5	4	83	2685	16.85%
Ward 6	1177	107	25	16	1147	2	5	52	2531	15.88%
Total	7525	868	83	216	6827	7	36	376	15938	100.00%
% of City	47.21%	5.45%	0.52%	1.36%	42.83%	0.04%	0.23%	2.36%	100.00%	

Voting Age %

Ward 1	24.73%	9.38%	0.54%	0.85%	62.02%	0.00%	0.23%	2.25%	100.00%
Ward 2	37.31%	4.11%	0.33%	0.85%	54.44%	0.00%	0.07%	2.89%	100.00%
Ward 3	50.94%	7.50%	0.35%	0.85%	37.37%	0.00%	0.58%	2.42%	100.00%
Ward 4	63.40%	4.26%	0.49%	2.57%	27.65%	0.00%	0.14%	1.48%	100.00%
Ward 5	58.73%	3.43%	0.45%	2.23%	31.73%	0.19%	0.15%	3.09%	100.00%
Ward 6	46.50%	4.23%	0.99%	0.63%	45.32%	0.08%	0.20%	2.05%	100.00%



	Actual Pop.	Ideal Pop.	Deviate	Relative Deviation
Ward 1	3649	3618	31	0.85%
Ward 2	3646	3618	28	0.76%
Ward 3	3599	3618	-19	-0.53%
Ward 4	3585	3618	-33	-0.92%
Ward 5	3637	3618	19	0.52%
Ward 6	3594	3618	-24	-0.67%
Total	21710	21710		
Total Maximum Deviation	1.77%			

Total Maximum Deviation above 10% requires redistricting

Maximum Deviation less than than 5% is desirable if possible.

Ethnic/Racial Data-Total

	Anglo	Black	Am. Ind.	Asian	Hispanic	Haw/Pac Is	Other	Multi	Totals	%
Ward 1	1078	278	12	39	2152	0	7	83	3649	16.81%
Ward 2	1068	173	12	20	2276	0	2	95	3646	16.79%
Ward 3	1627	294	21	35	1503	0	15	104	3599	16.58%
Ward 4	2042	168	16	93	1176	0	11	79	3585	16.51%
Ward 5	1985	116	16	76	1317	4	8	115	3637	16.75%
Ward 6	1474	184	28	23	1782	4	6	93	3594	16.55%
Total	9274	1213	105	286	10206	8	49	569	21710	100.00%
% of City	42.72%	5.59%	0.48%	1.32%	47.01%	0.04%	0.23%	2.62%	100.00%	

Ethnic %

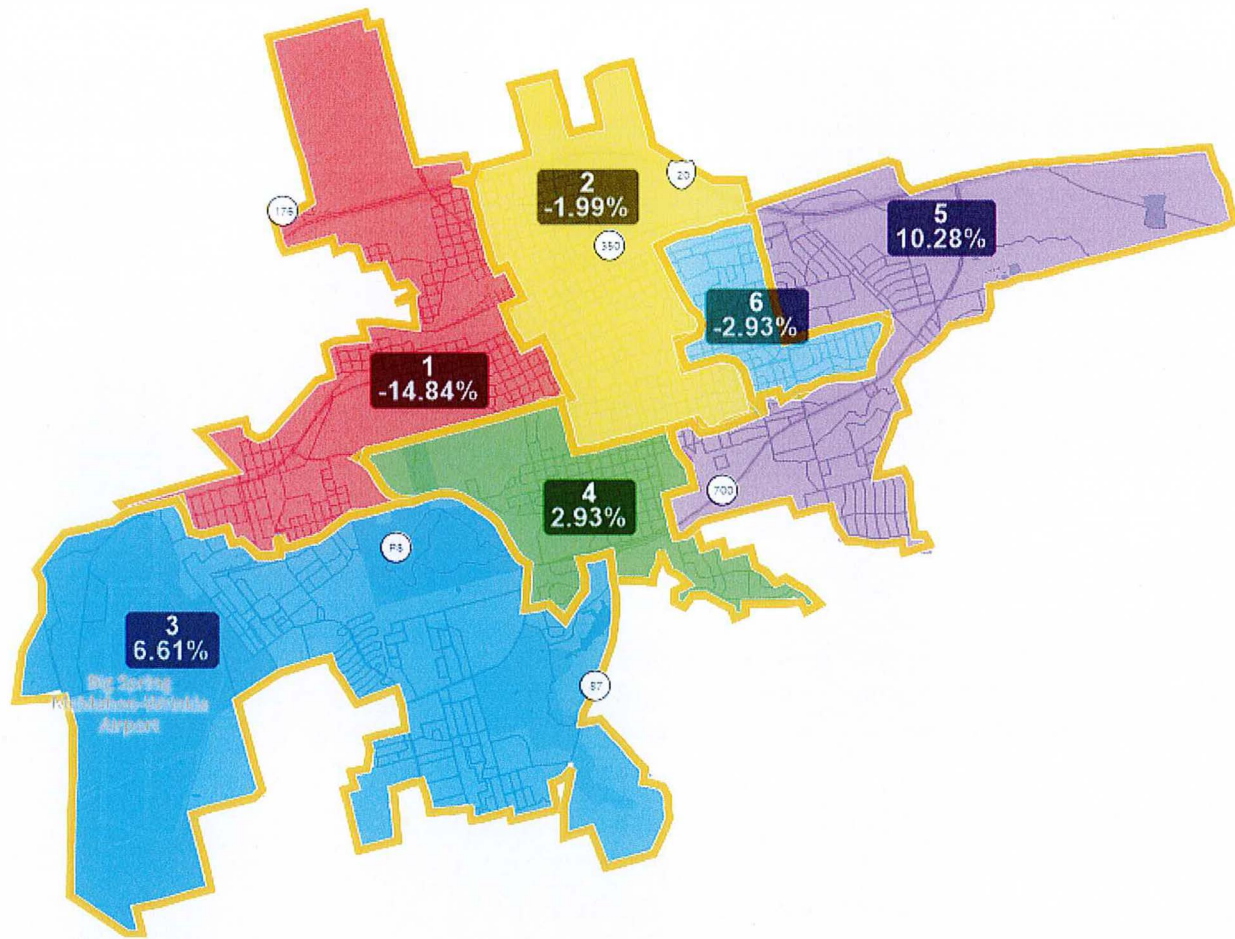
Ward 1	29.54%	7.62%	0.33%	1.07%	58.98%	0.00%	0.19%	2.27%	100.00%
Ward 2	29.29%	4.74%	0.33%	0.55%	62.42%	0.00%	0.05%	2.61%	100.00%
Ward 3	45.21%	8.17%	0.58%	0.97%	41.76%	0.00%	0.42%	2.89%	100.00%
Ward 4	56.96%	4.69%	0.45%	2.59%	32.80%	0.00%	0.31%	2.20%	100.00%
Ward 5	54.58%	3.19%	0.44%	2.09%	36.21%	0.11%	0.22%	3.16%	100.00%
Ward 6	41.01%	5.12%	0.78%	0.64%	49.58%	0.11%	0.17%	2.59%	100.00%

Voting Age Ethnic/Racial Data

	Anglo	Black	Am. Ind.	Asian	Hispanic	Haw/Pac Is	Other	Multi	Totals	%
Ward 1	893	229	12	24	1460	0	1	74	2693	16.90%
Ward 2	838	123	10	17	1571	0	15	63	2637	16.55%
Ward 3	1321	194	9	17	942	0	4	47	2534	15.91%
Ward 4	1722	123	15	82	855	0	4	80	2881	18.08%
Ward 5	1585	79	11	58	847	4	5	55	2644	16.60%
Ward 6	1166	120	26	18	1152	3	5	52	2542	15.96%
Total	7525	868	83	216	6827	7	34	371	15931	100.00%
% of City	47.23%	5.45%	0.52%	1.36%	42.85%	0.04%	0.21%	2.33%	100.00%	

Voting Age %

Ward 1	33.16%	8.50%	0.45%	0.89%	54.21%	0.00%	0.04%	2.75%	100.00%
Ward 2	31.78%	4.66%	0.38%	0.64%	59.58%	0.00%	0.57%	2.39%	100.00%
Ward 3	52.13%	7.66%	0.36%	0.67%	37.17%	0.00%	0.16%	1.85%	100.00%
Ward 4	59.77%	4.27%	0.52%	2.85%	29.68%	0.00%	0.14%	2.78%	100.00%
Ward 5	59.95%	2.99%	0.42%	2.19%	32.03%	0.15%	0.19%	2.08%	100.00%
Ward 6	45.87%	4.72%	1.02%	0.71%	45.32%	0.12%	0.20%	2.05%	100.00%



	Actual Pop.	Ideal Pop.	Deviate	Relative Deviation
Ward 1	3592	3618	-26	-0.73%
Ward 2	3618	3618	0	-0.01%
Ward 3	3613	3618	-5	-0.15%
Ward 4	3651	3618	33	0.90%
Ward 5	3605	3618	-13	-0.37%
Ward 6	3631	3618	13	0.35%
Total	21710	21710		
Total Maximum Deviation	1.63%			

Total Maximum Deviation above 10% requires redistricting

Maximum Deviation less than than 5% is desirable if possible.

Ethnic/Racial Data-Total

	Anglo	Black	Am. Ind.	Asian	Hispanic	Haw/Pac Is	Other	Multi	Totals	%
Ward 1	886	286	15	37	2277	0	6	85	3592	16.55%
Ward 2	1199	162	13	24	2123	1	2	94	3618	16.67%
Ward 3	1628	297	21	35	1513	0	15	104	3613	16.64%
Ward 4	2141	157	15	91	1163	0	11	73	3651	16.82%
Ward 5	1924	121	16	74	1328	5	6	131	3605	16.61%
Ward 6	1496	190	25	25	1802	2	9	82	3631	16.73%
Total	9274	1213	105	286	10206	8	49	569	21710	100.00%
% of City	42.72%	5.59%	0.48%	1.32%	47.01%	0.04%	0.23%	2.62%	100.00%	

Ethnic %

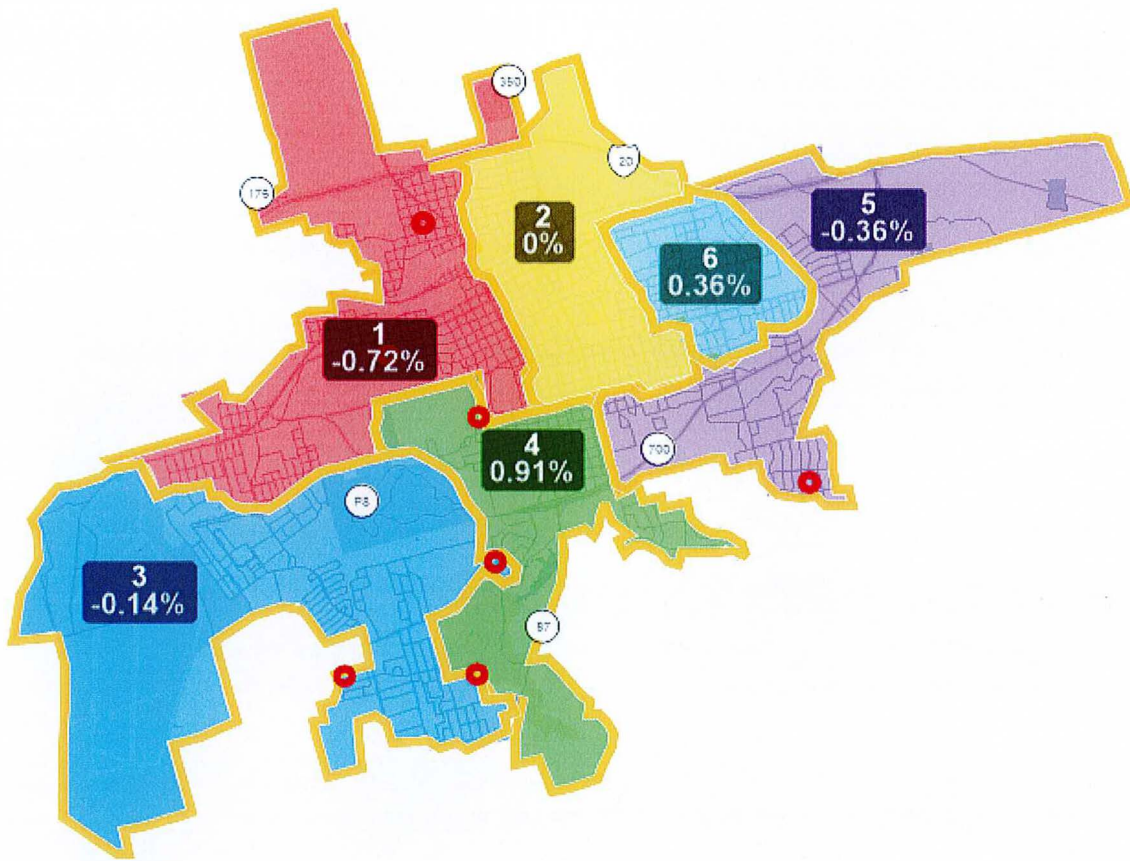
Ward 1	24.67%	7.96%	0.42%	1.03%	63.39%	0.00%	0.17%	2.37%	100.00%
Ward 2	33.14%	4.48%	0.36%	0.66%	58.68%	0.03%	0.06%	2.60%	100.00%
Ward 3	45.06%	8.22%	0.58%	0.97%	41.88%	0.00%	0.42%	2.88%	100.00%
Ward 4	58.64%	4.30%	0.41%	2.49%	31.85%	0.00%	0.30%	2.00%	100.00%
Ward 5	53.37%	3.36%	0.44%	2.05%	36.84%	0.14%	0.17%	3.63%	100.00%
Ward 6	41.20%	5.23%	0.69%	0.69%	49.63%	0.06%	0.25%	2.26%	100.00%

Voting Age Ethnic/Racial Data

	Anglo	Black	Am. Ind.	Asian	Hispanic	Haw/Pac Is	Other	Multi	Totals	%
Ward 1	730	237	15	22	1557	0	6	58	2625	16.47%
Ward 2	933	108	11	21	1470	0	2	72	2617	16.42%
Ward 3	1322	194	9	17	951	0	15	63	2571	16.13%
Ward 4	1805	126	14	80	835	0	4	47	2911	18.26%
Ward 5	1560	81	11	55	867	5	4	87	2670	16.75%
Ward 6	1175	122	23	21	1147	2	5	49	2544	15.96%
Total	7525	868	83	216	6827	7	36	376	15938	100.00%
% of City	47.21%	5.45%	0.52%	1.36%	42.83%	0.04%	0.23%	2.36%	100.00%	

Voting Age %

Ward 1	27.81%	9.03%	0.57%	0.84%	59.31%	0.00%	0.23%	2.21%	100.00%
Ward 2	35.65%	4.13%	0.42%	0.80%	56.17%	0.00%	0.08%	2.75%	100.00%
Ward 3	51.42%	7.55%	0.35%	0.66%	36.99%	0.00%	0.58%	2.45%	100.00%
Ward 4	62.01%	4.33%	0.48%	2.75%	28.68%	0.00%	0.14%	1.61%	100.00%
Ward 5	58.43%	3.03%	0.41%	2.06%	32.47%	0.19%	0.15%	3.26%	100.00%
Ward 6	46.19%	4.80%	0.90%	0.83%	45.09%	0.08%	0.20%	1.93%	100.00%



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BIG SPRING ADOPTING THE 2021 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES WITHIN THE CITY LIMITS; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE, AND THE DEMOLITION OF SUCH EXISTING STRUCTURES IN THE CITY OF BIG SPRING; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFOR; REPEALING CHAPTER 36, "NUISANCES," ARTICLE II, "UNSANITARY, UNSIGHTLY, AND PUBLIC NUISANCE CONDITIONS OF PROPERTY IN ITS ENTIRETY; AMENDING CHAPTER 44, "SOLID WASTE," ARTICLE I, "IN GENERAL," SECTION 1, "DEFINITIONS," SECTION 44-1 AND ARTICLE III, "ILLEGAL DUMPING AND LITTER CONTROL," SECTION 101, "DEFINITIONS TO AMEND THE DEFINITIONS OF "GARBAGE"; AND AMENDING THE STRUCTURAL STANDARDS ORDINANCE, ARTICLE I, SECTION 1.05 "DEFINITIONS," SUBSECTION (c) "BUILDING CODES" TO INCLUDE CHAPTER 36, ARTICLES I AND III IN THE BUILDING CODES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, under the Constitution of the United States, "... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws," Fourteenth Amendment, Section 1; and

WHEREAS, under the Texas Constitution, "No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land," Article 1, Section 19; and

WHEREAS, the Supreme Court of Texas has found that the Texas Constitution confers additional property rights upon owners of real property in Texas beyond the property rights recognized in the Constitution of the United States, *City of Dall. v. Stewart*, 361 S.W.3d 562 (Tex. 2012); and

WHEREAS, the Tenth Amendment to the Constitution of the United States reserves to the people certain powers; and

WHEREAS, the citizens of the City of Big Spring may lawfully enjoy home rule, and may adopt and amend the City's own Charter, as they have done, as respected by Article XI, Section 5 of the Texas Constitution; and

WHEREAS, the Texas Legislature has enacted statutes, including one which states: "The governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule, or police regulation that: (1) is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and (2) is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality," Section 51.001, Texas Local Government Code; and

WHEREAS, by Texas statute, concerning a home-rule city, "(a) The municipality has full power of local self-government, (b) The grant of powers to the municipality by this code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government," Section 51.072, Local Government Code; and

WHEREAS, by Texas statute, "A home-rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants," Section 54.004, Local Government Code; and

WHEREAS, by Texas statute, "(a) The governing body of a municipality may enforce each rule, ordinance, or police regulation of the municipality and may punish a violation of a rule, ordinance, or police regulation, (b) A fine or penalty for the violation of a rule, ordinance, or police regulation may not exceed \$500 except that: (1) a fine or penalty for the violation of a rule, ordinance, or police regulation that governs fire safety, zoning, or public health and sanitation, other than the dumping of refuse, may not exceed \$2,000; and (2) a fine or penalty for the violation of a rule, ordinance, or police regulation that governs the dumping of refuse may not exceed \$4,000," Section 54.001, Local Government Code; and

WHEREAS, under Texas statute, "A municipality may, by ordinance, require the vacation, relocation of occupants, securing, repair, removal, or demolition of a building" that is substandard as defined by the statute and ordinance, Section 214.001, Local Government Code; and

WHEREAS, under Texas statute, a municipality may authorize a civil action to enforce various ordinances, to require their abatement, and to request that a court assess a civil penalty upon a violator, Chapter 54, Subchapter B, Local Government Code; and

WHEREAS, under Texas statute, a municipality that adopts an ordinance may assume the authority granted by State law therein to enforce certain ordinances affecting building standards, health, sanitation, and animals, Subchapter C, Chapter 54, Local Government Code; and

WHEREAS, the City Council of Big Spring finds that federal and state law allow a Texas municipality, after providing due process of law including a hearing, allowing for an appeal, and meeting other requirements, to demolish and remove a structure that constitutes a nuisance; and

WHEREAS, under the Charter of the City of Big Spring, the City Council of Big Spring may adopt ordinances within the scope of the authority of Texas home rule cities, including ordinances that define, prohibit, abate, and prevent all things detrimental to the health, morals, comfort, safety, convenience, and welfare of the inhabitants of the city, and all nuisances and causes thereof, and

WHEREAS, a dangerous, unsafe, or hazardous structure is detrimental to the safety and welfare of the public, tends to reduce the value of private property, invites vandalism, creates a fire hazard, is an attractive nuisance creating a hazard to the health and safety of minors, produces urban blight adverse to the maintenance and continuing development of municipalities, and therefore regulation of such a building is justified; and

WHEREAS, under the Fourth Amendment to the Constitution of the United States, “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized,” and

WHEREAS, under the Texas Constitution, “The people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures or searches, and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation,” Section 9, Article I; and

WHEREAS, City Council intends to provide minimum requirements for the protection of life, health, property, safety, and welfare of the general public from the hazards and dangers of substandard structures; to establish minimum standards for the continued use and occupancy of all structures, regardless of the date of their construction; to see that the property rights and privacy rights of property owners and residents are respected, to provide for giving proper notice to the owner of a structure; to provide for a public hearing to determine whether a structure complies with the standards set out in this Ordinance; and to respect the due process rights and the rights in the due course of law for all; and

WHEREAS, by ordinance the City has previously adopted regulations concerning illegal dumping, nuisance conditions of property, weed and grass maintenance, junked vehicles, and a notice, hearings, and appeals process for substandard structures, and City Council wishes to put into place minimum standards for premises and structures inside City limits; and

WHEREAS, City Council finds that respecting property rights and maintaining minimum standards for structures and premises are both important policies of the City; and

WHEREAS, City Council finds it necessary and proper to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants and therefore adopts the following ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AS FOLLOWS, THAT:

SECTION 1. Big Spring City Code, Chapter 36, entitled “Nuisances,” Article I, entitled “In General,” is renamed to “Property Maintenance.”

SECTION 2. A certain document, three (3) copies of which are on file in the office of the City Secretary of City of Big Spring, being marked and designated as the International Property Maintenance Code, 2021 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Big Spring, in the State of Texas, for regulating and governing the conditions and maintenance of all property, buildings and structures within the City Limits; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said Property Maintenance Code on file in the office of the City of Big Spring are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Section 3 of this ordinance.

SECTION 3. Big Spring City Code Chapter 36, entitled “Nuisances,” Article I, newly entitled “Property Maintenance,” is hereby amended to add a new Section 36-1 entitled “Property Maintenance Code of Big Spring” and shall read as follows:

CHAPTER 36 – NUISANCES

ARTICLE I. – PROPERTY MAINTENANCE

Section 36-1. Property Maintenance Code of Big Spring.

The International Property Maintenance Code, as published by the International Code Council, Inc., save and except Appendix B, is hereby adopted as part of the building codes of the city by reference as though they were copied herein fully including all appendices, except where expressly excluded herein.

The following sections are hereby revised or subjected to insertion as stated:

CHAPTER 1 SCOPE AND ADMINISTRATION

PART 1 – SCOPE AND APPLICATION

SECTION 101 SCOPE AND GENERAL REQUIREMENTS

SECTION 101.1 TITLE. Insert “Property Maintenance Code of Big Spring.”

SECTION 102 APPLICABILITY

102.4 EXISTING REMEDIES. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any *structure* that is *dangerous*, unsafe, or insanitary.

102.6 STRUCTURAL ANALYSIS. Where structural analysis is used to determine if a dangerous structural condition exists, the analysis shall be permitted to use nominal strengths, nominal loads, load effects, required strengths and limit states in accordance with the requirements under which the *structure* was constructed or in accordance with any subsequent requirement.

PART 2 – ADMINISTRATION AND ENFORCEMENT

SECTION 103 CODE COMPLIANCE AGENCY

103.1 GENERAL. Insert “Code Compliance Department.”

103.2 APPOINTMENT. The *code official* shall be appointed by the City Manager or his designee.

SECTION 104 FEES

104.1 COSTS. The City may assess a property owner for costs incurred to demolish, board, fence, secure, vacate, relocate occupants, repair, treat, remediate or similar action identified in this code. This includes the costs incurred because a property owner fails to comply with an order of the *code official*. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition. Unless exempted by the Texas Constitution or state law, the expense incurred by the

City under this code may be recorded as a lien against the real property on which the building, structure, or noncompliant condition is located, with interest on the unpaid balance to accrue at the maximum rate allowed by law.

104.1.1 CIVIL PENALTY FOR ABATEMENT. In addition to costs in Section 104.1, a civil penalty of 25% of the costs is presumed to be a reasonable civil penalty, intended to fully compensate the City for its expenses including time and labor, and to deter property owners from resorting to the City for maintenance of property. The City shall assess a reasonable civil penalty against a property owner for an abatement by the City.

SECTION 105 DUTIES AND POWERS OF THE CODE OFFICIAL

105.3.1. LIMITATION OF SEARCH AND SEIZURE AUTHORITY. Nothing in Section 105.3 or any other part of the Property Maintenance Code of Big Spring shall give the *code official* more authority to conduct an administrative search, or any other search or seizure than allowed by the Constitution of the United States or the Texas Constitution.

SECTION 107 MEANS OF APPEAL

107.1 APPEAL. Appeals from these regulations shall be as stated through the Structural Standards Chapter of the Big Spring City Code.

107.3 RESERVED.

SECTION 108 BOARD OF APPEALS

108.1 RESERVED.

SECTION 110 STOP WORK ORDER

110.1 AUTHORITY. Where the *code official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in an unsafe manner, the *code official* is authorized to issue a stop work order.

SECTION 111 UNSAFE STRUCTURES AND EQUIPMENT

111.1.1 UNSAFE STRUCTURES. An unsafe *structure* is one that is found to be hazardous to the life, health, property, or safety of the public or the *occupants* of the *structure* by not

providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such *structure* contains unsafe equipment or is *dangerous*.

111.1.3.1 ACTION PLAN. If the code official finds a structure unfit for human occupancy, the *code official* may require the owner of the property to provide an action plan for repairs to the *code official*, in addition to other powers and duties of the *code official*.

111.1.5 HAZARDOUS STRUCTURE OR PREMISES. For the purpose of this code, any *structure* or *premises* that has any or all of the conditions or defects described as follows shall be considered to be hazardous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any building, structure, or portion thereof that is dangerous.
4. Reserved.
5. Reserved.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or *structure* is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or *structure* to their danger, becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building or *structure* for committing a nuisance or an unlawful act.
8. Any building or *structure* has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or *structure* provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or *structure*, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or *structure*, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or *structure* or whenever any building or *structure* is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

111.4 NOTICE. Whenever the *code official* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 111.4.1 and 111.4.2 to the owner or the owner's authorized agent, for the violation as specified in this code. Notices for civil abatement and condemnation procedures shall comply the Structural Standards Chapter.

111.4.3 COPY OF NOTICE. The *code official* may also provide a copy of any notice of violation to the *occupant* of the property.

SECTION 113 DEMOLITION

113.1 GENERAL. The *code official* shall order the *owner* or *owner's* authorized agent of any *premises* upon which is located any *structure*, which in the *code official's* or *owner's* authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be *dangerous*, unsafe, insanitary or otherwise unfit for human habitation or *occupancy*, and such that it is unreasonable to repair the *structure*, to demolish and remove such *structure*; or if such *structure* is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any *structure* for a period of more than two years, the *code official* shall order the *owner* or *owner's* authorized agent to demolish and remove such *structure*, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

113.4 SALVAGE MATERIALS. If the City demolishes and removes a structure, then the city, or its agent, may sell the salvage and valuable materials at the highest price obtainable.

CHAPTER 2 DEFINITIONS

SECTION 201 GENERAL

201.3 TERMS DEFINED IN OTHER CODES. Where terms are not defined in this code and are defined in the *International Building Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *International Plumbing Code*, *International Residential Code*, *International Zoning Code* or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes, as adopted by ordinance.

Exception: When used within this code, the term "unsafe" shall have only the meaning ascribed to it in this code and shall not have the meaning ascribed to it by the *International Existing Building Code*.

SECTION 202 GENERAL DEFINITIONS

Definitions that follow which conflict or add to the International Property Maintenance Code are hereby inserted.

ACTION PLAN. A written plan that identifies repairs, the timeline for completion, alternative methods of compliance, and other appropriate items.

DANGEROUS. Any building, structure, or portion thereof that meets any of the conditions described below shall be deemed dangerous:

1. The building or structure has collapsed, has partially collapsed, has moved off its foundation or lacks the necessary support of the ground.
2. There exists a significant risk of collapse, detachment or dislodgment of any portion, member, appurtenance or ornamentation of the building or structure under permanent, routine, or frequent loads; under actual loads already in effect; or under snow, wind, rain, flood, earthquake, or other environmental loads when such loads are imminent.

GARBAGE. See definition in Big Spring City Code Section 44-1, "Garbage."

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, arachnids, rodents, vermin, or other pests.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coke and other combustible materials, bottle caps, cigarette butts and other tobacco products coal, clothing, containers, boxes, cardboard, cartons, crockery, disposable packages, dust, excelsior, glass, gum, leather, metals, mineral matter, paper, plastic, rags, rubber, tin cans, tree branches, yard trimmings, waste building materials, wood, and other similar materials.

CHAPTER 3 GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.2 RESPONSIBILITY. The *owner* of the premises shall maintain the structures and exterior property in compliance with these requirements and the code under which the building was constructed, except as otherwise provided for in this code. The *owner* or owner's agent shall be responsible to know that any alterations or modifications to the building or portion thereof, exterior or interior, are altered or modified in accordance with the *International Building Code* or *International Existing Building Code*. A person shall not occupy as owner-occupant or permit another person to occupy premises that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit*, *rooming unit* or *housekeeping unit* are responsible for keeping in a clean, sanitary, and safe condition that part of the *dwelling unit*, *rooming unit*, *housekeeping unit* or *premises* they occupy and control.

302.1.1 STAGNANT WATER. The occupant shall keep that part of the exterior property that such occupant occupies or controls free of holes or places where water may accumulate and become stagnant or be or remain on such lot or premises or to allow or permit the accumulation of stagnant water thereon, or to permit the same to remain thereon.

**SECTION 302
EXTERIOR PROPERTY AREAS**

302.4 WEEDS. Insert “12 inches.”

302.4.1 DEFENSE. It is a defense to prosecution to an alleged violation of 302.4 if the property within the corporate limits of the city zoned on the official zoning map as agricultural "A", allows vegetation to achieve its natural height, provided that the following clear zones are maintained to a height not to exceed 12 inches: (1) The clear zone will be maintained for 200 feet from contiguous occupied property lines; (2) Two hundred feet behind the property line along all public right-of-way; and (3) The clear zone shall be maintained within an adjoining half of a public right-of-way or adjoining half of an alley/easement.

302.4.2 DANGEROUS WEEDS. Weeds that grow higher than 48 inches and are an immediate danger to the health, life, or safety of any person are prohibited, and the *code official* shall have the authority to abate such weeds immediately and without notice.

302.4.3 ANNUAL NOTICE FOR WEEDS. In the notice of violation required under Section 109.2, the *code official* may inform the owner that if the owner commits another violation of the same kind or nature that poses a public nuisance on or before the first anniversary of the date of the notice, the city, without further notice, may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period, and the city had not been informed in writing by the owner of an ownership change, then the city, without notice, may do the work and make the improvements required and pay for the work done or improvements made and charge the expenses to the owners of the property and then assess its expenses as provided for in Section 109.3

302.7.1 FENCING. Fencing shall be solidly anchored to the ground to prevent animals from escaping by digging under the fence and sufficient height to prevent animals from escaping. An exception to this duty shall apply if an animal is not being kept on the premises behind the fence.

302.8 RESERVED.

302.9.1 OWNER RESPONSIBILITY TO REMOVE GRAFFITI. The responsibility of the owner in Section 302.9 is superseded by Big Spring City Code Section 36-12.

SECTION 304

EXTERIOR STRUCTURE

304.1.1 UNSAFE CONDITIONS. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. Structural members have deterioration or distress that appears to reduce their load-carrying capacity.
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations have deterioration or distress that appears to reduce their load-carrying capacity.
3. Structures or components thereof have deterioration or distress that appears to reduce their load-carrying capacity.
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or watertight.
5. Reserved.
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and in capable of supporting all nominal loads and resisting all load effects.
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects.
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes, and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
12. Exterior stairs, decks, porches, balconies, and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.

13. Chimneys, cooling towers, smokestacks, and similar appurtenances not structurally sound or not properly *anchored*, or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the code official.

304.2. RESERVED.

304.3 PREMISES IDENTIFICATION. See Big Spring City Code Sections 46-5 and 46-6.

304.14 RESERVED.

304.5.1 FOUNDATION SKIRTING. Foundation skirting shall be maintained under the conditions of foundation walls in Section 304.5.

304.18.1 RESERVED.

SECTION 305 INTERIOR STRUCTURE

305.1.1 UNSAFE CONDITIONS. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code*, the *International Existing Building Code* or the *International Residential Code* as required for existing buildings:

1. Structural members have deterioration or distress that appears to reduce their load-carrying capacity.
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations have deterioration or distress that appear to reduce their load-carrying capacity.
3. Structures or components thereof that have deterioration or distress that appears to reduce their load-carrying capacity.
4. Reserved.
5. Stairs, landings, balconies, and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an *approved* method.

2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

**SECTION 307
HANDRAILS AND GUARDRAILS**

307.1.1. BACKYARDS. It is an exception to Section 307.1 that the property is located on the premises of a single-family home or twinhome.

307.1.2. GOOD REPAIR. Handrails and guards shall be maintained in good repair and in safe condition.

**SECTION 308
RUBBISH AND GARBAGE**

308.1.1. ACCUMULATION OF CARRION AND FILTH. Exterior property and premises, and the interior of every structure, shall be free from any accumulation of carrion, filth, or any other impure or unwholesome matter.

**SECTION 310
ACCESSIBILITY.**

310.1 MAINTENANCE OF FACILITIES. A facility that is required to be accessible shall be maintained accessible during occupancy.

310.1.1 EXTENT OF APPLICATION. The accessible features of a facility shall be maintained in good repair, in a clean, structurally sound, and sanitary condition and free from impediments to accessibility.

CHAPTER 4 LIGHT, VENTILATION, AND OCCUPANCY LIMITATIONS

**SECTION 404
OCCUPANCY LIMITATIONS**

404.15 SECTIONS NOT MANDATORY. The following sections shall not impose any legal duty; no penalty is imposed for their violation; the City is not authorized to abate a violation of them; and they shall only be recommended: Sections 404.2, 404.3, 404.4, 404.4.1, 404.4.2, 404.4.3, 404.4.4, 404.4.5, 404.4.5.1, 404.4.5.2, and 404.6.

CHAPTER 6 MECHANICAL AND ELECTRICAL REQUIREMENTS

**SECTION 602
HEATING FACILITIES**

602.3 HEAT SUPPLY. Insert: October 1 to June 1.

602.4 OCCUPIABLE WORKSPACES. Insert: October 1 to June 1.

**SECTION 605
ELECTRICAL EQUIPMENT**

605.4.1 EXTENSION CORDS. Flexible cords in Section 605.4 includes extension cords.

**SECTION 608
COMMERCIAL COOKING SYSTEMS**

608.1 OPERATIONS AND MAINTENANCE. Commercial cooking systems shall be operated and maintained in accordance with Section 606.3 of the International Fire Code

SECTION 4. Big Spring City Code, Chapter 36, entitled “Nuisances,” Article II, entitled, “Unsanitary, Unsightly, and Public Nuisance Conditions of Property,” is repealed.

SECTION 5. Big Spring City Code, Chapter 44, entitled “Solid Waste,” Article I, entitled “In General,” Section 1, entitled “Definitions,” 44-1 is amended in part as follows:

...

Garbage includes, among similar matter, animal or vegetable (and/or other matter) waste materials and refuse resulting from the handling, packing, preparation, processing, cooking, consumption, dealing in, canning, storage, transportation, decay, or decomposition of meats, fish, fowl, birds, fruits, grains, or other animal or vegetable matter (including but not by way of limitation, used tin cans and other food containers; including all putrescible waste matter which is likely to attract flies or rodents), except (in all cases) any matter included in the definition of bulky waste in Section 44-101, dead animals, hazardous waste, or rubbish.

~~*Garbage* includes, among other similar matter, all animal or vegetable matter, such as waste materials and refuse from kitchens, residences, grocery stores, butcher shops, restaurants, cafes, hotels, and rooming houses and boardinghouses.~~

...

SECTION 6. Big Spring City Code, Chapter 44, entitled “Solid Waste,” Article III, entitled “Illegal Dumping and Litter Control,” Section 101, entitled “Definitions,” is amended in part as follows:

...

Garbage. See definition as adopted in Big Spring City Code Section 44-1, “Garbage.”

~~*Garbage* includes, among other similar matter, all animal or vegetable matter, such as waste materials and refuse from kitchens, residences, grocery stores, butcher shops, restaurants, cafes, hotels, and rooming houses and boarding houses.~~

...

SECTION 7. The Big Spring City Code Structural Standards Ordinance, Article 1, Section 1.05, Definitions, is hereby amended in part follows:

...

(c) "Building Codes" means codes and ordinances adopted in the Big Spring City Code Sections 12-2, 12-44, 12-49, 24-1, and 24-49; and Chapter 36, Articles I and III; and any ordinances that set the appeal or hearing through the Structural Standards Ordinance, ~~and~~ as those ordinances are amended from time to time.

...

SECTION 8. If any section, subsection, sentence, clause, or phrase of this legislation is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this law, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 9. Nothing in this legislation or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this law; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this legislation.

SECTION 10. The City Secretary is hereby ordered and directed to cause the descriptive caption as well as the penalties for violation of this ordinance to be published as required by law.

SECTION 11. This ordinance shall take effect immediately after its publication in accordance with the provisions of the Charter of the City of Big Spring, and it is accordingly so ordained.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the **11th** day of **January, 2022** with all members of the Council voting "aye" for the passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the **25th** day of **January, 2022** with all members of the Council voting "aye" for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, AMENDING ORDINANCE NUMBER 039-2021 WHICH ADOPTED THE ANNUAL BUDGET FOR THE CITY OF BIG SPRING, TEXAS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022 BY INCREASING THE SPECIAL REVENUE FUND, SENIOR CENTER, BUDGET FOR THE PURPOSE OF PURCHASING A NEW VEHICLE FOR THE SENIOR CENTER; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the City Council adopted the annual 2021-22 budget for the City of Big Spring, Texas on September 28, 2021 (“Budget”); and

WHEREAS a new vehicle for the Senior Center was not included in such Budget; and

WHEREAS the City Council desires to increase the special revenue fund budget in order to purchase a new vehicle for the Senior Center for meal deliveries.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS AS FOLLOWS:

SECTION 1. The Special Revenue Fund, Senior Center Budget of the Annual Budget for the City of Big Spring, Texas for the Fiscal Year beginning October 1, 2021 and ending September 30, 2022 is hereby increased by the amount of \$25,000.00 to the expense account number 160-050-910-6401 (Vehicles) for the purpose of purchasing a new vehicle for the Senior Center. The net increase will be funded through a donation from the Broughton Foundation.

SECTION 2. The remaining portions of Ordinance Number 039-2021 shall remain in full force and effect.

SECTION 3. Should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose, the reminder of this ordinance shall not be affected thereby.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 5. The City Secretary is hereby authorized and directed to cause the publication of this ordinance in accordance with law.

SECTION 6. This ordinance shall be in full force and effective from and after its publication as required by law.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the **11th** day of **January, 2022** with all members of the Council voting “aye” for the passage of same.

PASSED AND APPROVED on second reading at a regular meeting of the City Council on the **25th** day of **January, 2022** with all members of the Council voting “aye” for the passage of same.

Shannon D. Thomason, Mayor

ATTEST:

Tami L. Davis, City Secretary