



Dr. Larry Wallace Jr., Mayor  
Deja Hill, Mayor Pro Tem, Place 5  
Emily Hill, Place 1  
Maria Amezcua, Place 2  
Dr. Christopher Harvey, Place 3  
Danny Scarbrough, Place 4  
Valerie Dye, Place 6

**CITY COUNCIL  
CALLED SPECIAL SESSION  
AGENDA**

**Via Telephone/Video Conference**

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Thursday, April 23, 2020

1:00 p.m.

Manor City Hall – Council Chambers  
105 E. Eggleston Street

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**NOTICE IS HEREBY GIVEN** in accordance with an order of the Office of the Governor issued March 16, 2020, the City Council will conduct this meeting by video conference in order to advance the public health goal of limiting face-to-face meetings to slow the spread of the COVID-19. There will be no public access to the location described above.

This meeting will be live streamed on Facebook live.

You can access the meeting at <https://www.facebook.com/cityofmanor/>

**Instructions for Public Speaking:**

- Members of the public that wish to speak during public comments, public hearing or an agenda item will need to register in advance by visiting [www.cityofmanor.org](http://www.cityofmanor.org) where a registration link will be posted on the calendar entry for each public meeting. You will register by filling in the speaker card available for that specific meeting and submitting it to [publiccomments@cityofmanor.org](mailto:publiccomments@cityofmanor.org). Once registered, instructions will be emailed to you on how to join the videoconference by calling in. Your Speaker Card must be received two (2) hours prior to scheduled meeting.

**Upon receiving instructions to join zoom meeting the following rules will apply:**

- Speakers must address their comments to the Mayor rather than to individual Council Members or city staff. Speakers should speak clearly into their device and state their name and address prior to beginning their remarks. Speakers will be allowed 3 minutes for testimony. Speakers making personal, impertinent, profane or slanderous remarks may be removed from the meeting.

## CALL TO ORDER AND ANNOUNCE A QUORUM IS PRESENT

## PLEDGE OF ALLEGIANCE

## PUBLIC COMMENTS

Comments will be taken from the audience participating in zoom meeting on non-agenda related topics for a length of time, not to exceed three (3) minutes per person. Comments on specific agenda items must be made when the item comes before the Council. To address the City Council, please register and submit the speaker card following the instructions for public speaking above. **No Action May be Taken by the City Council During Public Comments**

## CONSENT AGENDA

All of the following items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless requested by the Mayor or a Council Member; in which event, the item will be removed from the consent agenda and considered separately.

1. Consideration, discussion, and possible action to approve the City Council Minutes of the April 15, 2020, Regular Meeting. Lluvia T. Almaraz,  
City Secretary

## REGULAR AGENDA

2. Consideration, discussion, and possible action on a Resolution finding that Oncor Electric Delivery Company LLC's application for approval of a distribution cost recovery factor pursuant to Texas Administrative Code 23.243 to increase distribution rates within the city should be denied. Thomas Bolt,  
City Manager
3. Consideration, discussion, and possible action on a license agreement with the Hamilton Point Homeowners Association, Inc., for the installation and maintenance of four (4) message posts along the right-of-way in Hamilton Point Subdivision. Scott Dunlop,  
Assistant Dev.  
Services Director
4. Consideration, discussion, and possible action on a development agreement for the Grassdale at Manor Apartments and the City of Manor. Scott Dunlop,  
Assistant Dev.  
Services Director
5. Consideration, discussion, and possible action on an Ordinance Continuing a State of Local Disaster Declaration for the City of Manor. Thomas Bolt,  
City Manager

## ADJOURNMENT

In addition to any executive session already listed above, the City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Section §551.071 (Consultation with Attorney), §551.072 (Deliberations regarding Real Property), §551.073 (Deliberations regarding Gifts and Donations), §551.074 (Personnel Matters), §551.076 (Deliberations regarding Security Devices) and §551.087 (Deliberations regarding Economic Development Negotiations).

## POSTING CERTIFICATION

I, the undersigned authority do hereby certify that this Notice of Meeting was posted on the bulletin board, at the City Hall of the City of Manor, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time: Monday, April 20, 2020, at 12:40 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

/s/ Lluvia T. Almaraz, TRMC  
City Secretary for the City of Manor, Texas

## ***NOTICE OF ASSISTANCE AT PUBLIC MEETINGS:***

*The City of Manor is committed to compliance with the Americans with Disabilities Act. Manor City Hall and the Council Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary at 512.272.5555 or e-mail [lalmaraz@cityofmanor.org](mailto:lalmaraz@cityofmanor.org)*



## AGENDA ITEM SUMMARY FORM

**PROPOSED MEETING DATE:** April 15, 2020

**PREPARED BY:** Lluvia T. Almaraz, City Secretary

**DEPARTMENT:** Administration

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**AGENDA ITEM DESCRIPTION:**

Consideration, discussion, and possible action to approve the City Council Minutes of the April 15, 2020, Regular Meeting.

**BACKGROUND/SUMMARY:**

**PRESENTATION:** ☐ YES ☒ NO

**ATTACHMENTS:** ☒ YES (IF YES, LIST IN ORDER TO BE PRESENTED) ☐ NO

April 15, 2020, Regular Session Minutes

**STAFF RECOMMENDATION:**

It is City staff's recommendation that the City Council approve the City Council Minutes of the April 15, 2020, Regular Meeting.

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**PLANNING & ZONING COMMISSION:** ☐ RECOMMENDED APPROVAL ☐ DISAPPROVAL ☐ NONE

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**CITY COUNCIL  
SPECIAL SESSION MINUTES  
APRIL 15, 2020**

**The meeting was live streamed on Facebook Live beginning at 7:00 p.m.  
<https://www.facebook.com/cityofmanor/>**

**PRESENT:**

Dr. Larry Wallace Jr., Mayor

**COUNCIL MEMBERS:**

Emily Hill, Place 1  
Maria Amezcua, Place 2  
Dr. Christopher Harvey, Place 3  
Danny Scarbrough, Place 4  
Deja Hill, Mayor Pro Tem, Place 5  
Valerie Dye, Place 6

**CITY STAFF:**

Thomas Bolt, City Manager  
Lluvia T. Almaraz, City Secretary  
Heath Ferguson, IT Manager  
Michael Pachnick, IT Technician

**REGULAR SESSION – 7:00 P.M.**

With a quorum of the Council Members present, the regular session of the Manor City Council was called to order by Mayor Wallace Jr. at 7:06 p.m. on Wednesday, April 15, 2020, in the Council Chambers of the Manor City Hall, 105 E. Eggleston St., Manor, Texas.

**PLEDGE OF ALLEGIANCE**

Mayor Wallace Jr. led the Pledge of Allegiance.

## PROCLAMATIONS

### **A. Declaring the City of Manor to be a “*Purple Heart City*”**

Mayor Wallace Jr. read a proclamation declaring the City of Manor to be a “Purple Heart City”

### **B. Declaring the week of April 19-25, 2020, as “Crime Victims’ Rights Week”**

Mayor Wallace Jr. read a proclamation declaring the week of April 19-25, 2020, as “Crime Victims’ Rights Week”

### **C. Declaring the month of April 2020, as “*National Child Abuse Prevention Month*”**

Mayor Wallace Jr. read a proclamation declaring the month of April 2020, as “National Child Abuse Prevention Month”

### **D. Declaring the month of April 2020, as “*Military Child Month*”**

Mayor Wallace Jr. read a proclamation declaring the month of April 2020, as “Military Child Month”

### **E. Declaring the month of April 2020, as “*Sexual Assault Awareness Month*”**

Mayor Wallace Jr. read a proclamation declaring the month of April 2020, as “Sexual Assault Awareness Month”

### **F. Declaring the month of April 2020, as “*Autism Awareness Month*”**

Mayor Wallace Jr. read a proclamation declaring the month of April 2020, as “Autism Awareness Month”

## PUBLIC COMMENTS

Due to State and County Orders limiting gatherings to no more than ten (10) people and temporary suspension by the Governor of sections of the Texas Open Meetings Act that may be interpreted to require face-to-face interaction between members of the public and public officials, in-person public comments were canceled.

In the alternative, an email ([publiccomments@cityofmanor.org](mailto:publiccomments@cityofmanor.org)) was provided for any comments on agenda items or general comments from the public. All emails included the name and address for the record. The name of the person making the comment and the subject of the comment would be read into the record, and the entire comment would be made as part of the city records for the meeting. Public Comments were open until 6:30 p.m. the day of the meeting.

City Manager Bolt read the following name of the person and subject of the comment for the record, submitted by email.

Rick Battaile – *Public Comments Regarding Bocce Court at Timmermann Park*

The attached email is recorded as part of the Public Comments.

There were no additional public comments received prior to the meeting.

## **CONSENT AGENDA**

- 1. Consideration, discussion, and possible action to approve the City Council Minutes:**
  - **March 23, 2020, Called Special Session; and**
  - **April 6, 2020, Called Special Session**
- 2. Consideration, discussion, and possible action on the acceptance of the March 2020 Departmental Reports:**
  - **Police – Ryan Phipps, Chief of Police**
  - **Development Services – Scott Dunlop, Assistant Dev. Services Director**
  - **Community Development – Debbie Charbonneau, Community Dev. Manager**
  - **Municipal Court – Sarah Friberg, Court Clerk**
  - **Public Works – Michael Tuley, Director of Public Works**
  - **Finance – Lydia Collins, Director of Finance**

**MOTION:** Upon a motion made by Mayor Pro Tem Deja Hill and seconded by Council Member Amezcua, to approve and adopt all items on the Consent Agenda.

Mayor Wallace Jr. open the floor for any questions to the motion.

There was no discussion.

**Motion to approve carried 7-0**

## **REGULAR AGENDA**

- 3. Consideration, discussion, and possible action on an award of a construction contract for the 2019 Cap Metro Paving Improvements Project.**

The City staff recommended that the City Council award a construction contract to Smith Paving, Inc. in the amount of \$249,255 for all BASE BID Work.

City Manager Bolt discussed the construction contract for the 2019 Cap Metro Paving Improvements Project.

**MOTION:** Upon a motion made by Council Member Scarbrough and seconded by Council Member Amezcua, to award a construction contract to Smith Paving, Inc. in the amount of \$249,255 for all BASE BID Work.

Mayor Wallace Jr. open the floor for any questions to the motion.

Council Member Scarbrough inquired about the process for the paving construction of the project.

City Manager Bolt explained the base contract for the process of the Cap Metro Project.

The discussion was held regarding the list of the streets that would be repaired.

There was no further discussion.

**Motion to approve carried 7-0**

**4. Consideration, discussion, and possible action on a Development Agreement for the Design and Construction of Water and Wastewater Line Improvements.**

The City staff recommended that the City Council approve a Development Agreement for the Design and Construction of Water and Wastewater Line Improvements.

Lee Derr with IDEA Public Schools, 1822 W. Brake Lane, Austin, Texas, submitted a speaker card in support of this item; however, he did not wish to speak but was available for any questions.

City Manager Bolt discussed the Development Agreement for the Design and Construction of Water and Wastewater Line Improvements.

**MOTION:** Upon a motion made by Council Member Dr. Harvey and seconded by Council Member Dye, to approve a Development Agreement for the Design and Construction of Water and Wastewater Line Improvements.

Mayor Wallace Jr. open the floor for any questions to the motion.

The discussion was held regarding the water line location.

Frank Phelan, City Engineer joined the meeting by audio teleconference.

City Engineer Phelan discussed the new water line location on Tower Road and F.M 973.

The discussion was held regarding the existing 15" wastewater line that is owned by the City of Manor.

**Motion to approve carried 7-0**

**5. Consideration, discussion, and possible action on a Deposit Agreement for the Proposed Water Service Transfer for the IDEA Public Schools Project.**

The City staff recommended that the City Council approve the Deposit Agreement for the Proposed Water Service Transfer for the IDEA Public Schools Project and authorize the City Manager to execute the agreement.

Lee Derr with IDEA Public Schools, 1822 W. Brake Lane, Austin, Texas, submitted a speaker card in support of this item; however, he did not wish to speak but was available for any questions.

City Manager Bolt discussed the Deposit Agreement for the Water Service Transfer for the IDEA Public Schools Project.

**MOTION:** Upon a motion made by Council Member Amezcua and seconded by Council Member Emily Hill, to approve the Deposit Agreement for the Proposed Water Service Transfer for the IDEA Public Schools Project and authorize the City Manager to execute the agreement.

Mayor Wallace Jr. open the floor for any questions to the motion.

There was no discussion.

**Motion to approve carried 7-0**

**6. Consideration, discussion, and possible action on the installation of Little Free Libraries on certain park locations.**

The City staff recommended that the City Council approve the installation of Little Free Libraries on certain park locations.

City Manager Bolt discussed the installation of Little Free Libraries on certain park locations.

**MOTION:** Upon a motion made by Council Member Dye and seconded by Council Member Dr. Harvey, to approve the installation of Little Free Libraries on certain park locations.

Mayor Wallace Jr. open the floor for any questions to the motion.

Mayor Wallace asked if the project needed to be completed for Scout Colton Dwyer to meet his requirement for the Eagle Scout Badge.

The discussion was held regarding the deadline of the project.

The discussion was held regarding the minimum construction of the project before July 1, 2020.

Mayor Wallace Jr. recommended an amendment to the motion for Scout Colton Dwyer to coordinate an agreement with the Boy Scouts of America regarding the placement of books due to the current pandemic.

The discussion was held regarding Scout Dwyer's request for the approval of his project before July 1, 2020.

The discussion was held regarding the amendment to the motion.

Council Member Dye rescinded her motion.

**MOTION:** Upon a motion made by Council Member Dr. Harvey and seconded by Council Member Scarbrough, to approve the construction of the Little Free Library in the Manor Arts Park and installation to be approved at the time all city and county orders are lifted with direction of the City Manager.

Mayor Wallace Jr. open the floor for any questions to the motion.

Mayor Pro Tem Deja Hill inquired if there was only one location proposed for the project.

The discussion was held regarding other proposed locations within the city.

There was no further discussion.

**Motion to approve carried 7-0**

**7. Consideration, discussion and possible action on Personnel Policy addressing COVID-19 related issues including sick leave, employee pay, use of accruals, and expanded FMLA coverage under recently passed Federal Acts.**

The City staff recommended that the City Council approve the Personnel Policy addressing COVID-19 related issues including sick leave, employee pay, use of accruals, and expanded FMLA coverage under recently passed Federal Acts.

City Manager Bolt discussed the Personnel Policy addressing COVID-19.

**MOTION:** Upon a motion made by Council Member Dr. Harvey and seconded by Council Member Amezcua, to approve the Personnel Policy addressing COVID-19 related issues including sick leave, employee pay, use of accruals, and expanded FMLA coverage under recently passed Federal Act including first responders.

Mayor Wallace Jr. open the floor for any questions to the motion.

The discussion was held regarding the policy covering all city employees.

The discussion was held regarding current policy procedures for FMLA approval.

There was no further discussion.

**Motion to approve carried 7-0**

**8. Consideration, discussion, and possible action on canceling the May 6, 2020, Regular Council Meeting.**

The City staff recommended that the City Council cancel the May 6, 2020, Regular Council Meeting.

**MOTION:** Upon a motion made by Council Member Emily Hill and seconded by Council Member Amezcua, to cancel the May 6, 2020, Regular Council Meeting.

Mayor Wallace Jr. open the floor for any questions to the motion.

There was no discussion.

**Motion to approve carried 7-0**

Council Member Amezcua advised she would be abstaining from discussion and consideration of the following item, as she is a friend of the applicant. The appropriate Conflict of Interest Affidavit had been filled out and filed with the City Secretary.

Council Member Amezcua removed herself from the dais.

**9. Consideration, discussion, and possible action on abandonment of all or part of a city alley located at 401 Lexington Street, next to Lots 3, 4 and 5, Blk 62.**

City Manager Bolt explained the partial abandonment of right-of-way located at 401 Lexington Street. He is requesting for direction from City Council.

The discussion was held regarding the garage location on the property and alleyway.

The discussion was held regarding the utility lines on the alleyway.

The discussion was held regarding the partial abandonment vs the assessment of the alleyway.

The discussion was held regarding the size of the garage on the alleyway.

The discussion was held regarding the reasons why the garage would be taken down by current or future owner.

Council Member Scarbrough recommended for the city to abandon the part of the alleyway where the garage was located on.

The discussion was held regarding Conflict of Interest.

Council Member Dr. Harvey expressed his concerns regarding the partial abandonment of the alleyway.

The discussion was held regarding other properties within the city with same situation.

Council Member Scarbrough discussed the past lot plating issues within the city.

**MOTION:** Upon a motion made by Council Member Scarbrough and seconded by Council Member Dye, to abandoned and sale the piece of land to current owners based on the age of the house and past city practices when the house was built.

Mayor Wallace Jr. open the floor for any questions to the motion.

There was no further discussion.

**Motion failed 3-3** (Mayor Pro Tem Deja Hill, Council Member Emily Hill and Council Member Dr. Harvey voted against; Mayor Wallace Jr. voted for)

## **ADJOURNMENT**

The Regular Session of the Manor City Council Adjourned at 8:15 p.m. on Wednesday, April 15, 2020.

These minutes approved by the Manor City Council on the 23<sup>rd</sup> day of April 2020.

## **APPROVED:**

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Dr. Larry Wallace Jr.  
Mayor

## **ATTEST:**

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Lluvia T. Almaraz, TRMC  
City Secretary



**From:** Rick Battaile <

**Sent:** Monday, March 23, 2020 2:34 PM

**To:** Dr. Larry Wallace Jr. <Mayor@cityofmanor.org>; Emil Hill <CouncilMember1@cityofmanor.org>; Maria Amezcua <CouncilMember2@cityofmanor.org>; Dr. Christopher Harvey <CouncilMember3@cityofmanor.org>; Danny Scarbrough <CouncilMember4@cityofmanor.org>; Deja Hill <CouncilMember5@cityofmanor.org>; Valerie Dye <CouncilMember6@cityofmanor.org>; Tom Bolt <tbolt@cityofmanor.org>

**Cc:** robert@austinbocceleague

**Subject:** Public Comments Regarding Bocce Courts at Timmermann Park

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Dear Mayor, City Council Members, and City Manager:

The attached document represents public testimony I would have presented at the March 18, 2020 Manor City Council meeting.

Thank you for your attention and consideration.

Respectfully submitted,

Rick Battaile



## AGENDA ITEM SUMMARY FORM

PROPOSED MEETING DATE: April 23, 2020

PREPARED BY: Thomas Bolt, City Manager

DEPARTMENT: Administration

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### AGENDA ITEM DESCRIPTION:

Consideration, discussion, and possible action on a Resolution finding that Oncor Electric Delivery Company LLC's application for approval of a distribution cost recovery factor pursuant to Texas Administrative Code 23.243 to increase distribution rates within the city should be denied.

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### BACKGROUND/SUMMARY:

In order to maintain consistent rates across Oncor's service territory, Oncor asks that city council deny the Application at which time Oncor will appeal the denial to the Public Utility Commission of Texas (PUCT) and it will be consolidated with Oncor's proceedings on this matter before the PUCT.

PRESENTATION: ☐ YES ☒ NO

ATTACHMENTS: ☒ YES (IF YES, LIST IN ORDER TO BE PRESENTED) ☐ NO

Oncor Letter  
Resolution No. 2020-03

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### STAFF RECOMMENDATION:

It is City staff's recommendation that the City Council approve Resolution No. 2020-03 to deny the Oncor Electric Delivery Company LLC's application for approval of a distribution cost recovery factor pursuant to Texas Administrative Code 23.243 to increase distribution rates within the city.

PLANNING & ZONING COMMISSION: ☐ RECOMMENDED APPROVAL ☐ DISAPPROVAL ☐ NONE



**J. Michael Sherburne**  
Vice President  
Regulatory

April 2, 2020

City of Manor  
P O Box 387  
Manor, TX 78653

To the Honorable Mayor for the City of Manor:

Pursuant to PURA § 36.210 and 16 Tex. Admin. Code § 25.243(c)(1)(B), please find enclosed the Application of Oncor Electric Delivery Company LLC for Approval to Amend its Distribution Cost Recovery Factor ("Application") being filed today with the Public Utility Commission of Texas ("Commission"). This Application is also being filed today with Oncor's other original jurisdiction municipalities and affects all customers served by Oncor. Although addressed to the Commission, the Application (available for download at <https://oncor.goironcloud.com/Containers/Container.aspx?fid=7E1383549E2B42D4> with the following password: j?Bf8C!4^Fz@yTp) should be treated as if addressed directly to your municipality's governing body as the regulatory authority with original jurisdiction over Oncor's rates, operations, and services within your municipality's limits. If you desire a hard copy of the Application, please contact me at the below-listed number or email address.

Oncor is requesting that the governing body of your municipality take action on this Application as expeditiously as possible. If the governing body does not act within 60 days of this filing, the Application and rates requested therein will be deemed denied, appealed to and consolidated with Oncor's proceeding before the Commission. Upon the appeal, your municipality would have standing as a party to participate fully in the Commission proceeding.

Please do not hesitate to contact me if you have any questions concerning this filing.

Very truly yours,

A handwritten signature in dark ink that reads "J. Michael Sherburne". The signature is written in a cursive, flowing style.

**Oncor**  
1616 Woodall Rodgers Freeway  
Dallas, Texas 75202  
Tel: 214.486.4981  
[mike.sherburne@oncor.com](mailto:mike.sherburne@oncor.com)

**RESOLUTION NO. 2020-03**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANOR, TEXAS FINDING THAT ONCOR ELECTRIC DELIVERY COMPANY LLC'S ("ONCOR" OR "COMPANY") APPLICATION FOR APPROVAL OF A DISTRIBUTION COST RECOVERY FACTOR PURSUANT TO TEX. ADMIN. CODE 23.243 TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the City of Manor, Texas ("City") is an electric utility customer of Oncor Electric Delivery Company LLC ("Oncor" or "Company"), and a regulatory authority with an interest in the rates and charges of Oncor; and

**WHEREAS**, on or about April 3, 2020, Oncor filed with the City an Application for Approval of a Distribution Cost Recovery Factor ("DCRF"), PUC Docket No. 50734, seeking to increase electric distribution rates by approximately \$ 75,889,531; and,

**WHEREAS**, all electric utility customers residing in the City will be impacted by this ratemaking proceeding if it is granted; and,

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MANOR, TEXAS:**

**Section 1.** That the rates proposed by Oncor to be recovered through its DCRF charged to customers located within the City limits are hereby found to be unreasonable and shall be denied by City.

**Section 2.** That the Company shall continue to charge its existing rates to customers within the City.

**Section 3.** That a copy of this Resolution shall be sent to J. Michael Sherburne, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202.

**Section 4.** That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that the public notice of time, place, and purpose of said meeting was given as required by law.

**PASSED AND APPROVED THIS 23<sup>rd</sup> DAY OF APRIL 2020.**

**THE CITY OF MANOR, TEXAS**

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Dr. Larry Wallace Jr., Mayor

**ATTEST:**

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Lluvia T. Almaraz,  
City Secretary



AGENDA ITEM NO. 3

## AGENDA ITEM SUMMARY FORM

PROPOSED MEETING DATE: April 23, 2020

PREPARED BY: Scott Dunlop, Assistant Development Director

DEPARTMENT: Development Services

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### AGENDA ITEM DESCRIPTION:

Consideration, discussion, and possible action on a license agreement with the Hamilton Point Homeowners Association, Inc., for the installation and maintenance of four (4) message posts along the right-of-way in Hamilton Point Subdivision.

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### BACKGROUND/SUMMARY:

The Hamilton Point HOA wishes to install message boards adjacent to four mailboxes along the city's Right-of-Way (ROW) in the subdivision. This license agreement permits them to install their infrastructure on the city's property and provides for them to maintain the structures.

PRESENTATION: ☐ YES ☐ NO

ATTACHMENTS: ☒ YES (IF YES, LIST IN ORDER TO BE PRESENTED) ☐ NO

License Agreement

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### STAFF RECOMMENDATION:

It is City staff's recommendation that the City Council approve a license agreement with the Hamilton Point Homeowners Association, Inc., for the installation and maintenance of four (4) message posts along the right-of-way in Hamilton Point Subdivision

PLANNING & ZONING COMMISSION: ☐ RECOMMENDED APPROVAL ☐ DISAPPROVAL ☐ NONE

## **CITY OF MANOR LICENSE AGREEMENT**

This License Agreement (the "Agreement") is made and entered into on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the "Effective Date") by and between the CITY OF MANOR, a home-rule municipal corporation and political subdivision of the State of Texas situated in Travis County, Texas (the "City" or "Licensor"), and the Hamilton Point Homeowners Association, Inc. a Texas Nonprofit Corporation (the "Licensee"). The City and the Licensee are referred to together as the "Parties".

### **RECITALS:**

**WHEREAS**, The Hamilton Point Subdivision contains publicly-owned land; and

**WHEREAS**, the City desires to authorize the Licensee permission to enter and use publicly-owned land within the Hamilton Point Subdivision to construct, improve, install, and maintain improvements under the terms and conditions set forth in this License Agreement.

NOW, THEREFORE, in consideration of the premises; in furtherance of the mutual benefits to be derived by the general public, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Licensee agree as follows:

### **I. RECITALS**

1.01. The Recitals set out above in this Agreement are hereby adopted in whole as if each were set out herein.

### **II. PURPOSE OF LICENSE AGREEMENT**

2.01. The City grants to Licensee permission to use the licensed property for the following purposes only:

Construction, improvement, installation and maintenance of message posts (bulletin boards on posts) located at the Hamilton Point Subdivision, as more particularly shown and described in Exhibit "A" attached hereto (the "Improvements").

The above-described property, hereinafter referred to as the "Licensed Property", is further shown in Exhibit "A" attached to this Agreement and incorporated by reference for all purposes.

2.02. The City makes this grant solely to the extent of its right, title and interest in the licensed property, without any express or implied warranties.

2.03. Licensee agrees that: (a) the construction of the Improvements permitted by this Agreement shall be done in compliance with all applicable City, County, State and/or Federal laws, ordinances, regulations and policies now existing or later adopted; (b) that all construction and

installation of the Improvements will be completed in a timely manner without delay; (c) the Licensee will construct the Improvements according to plans filed with the City. Any changes in construction will be approved by the City. Any provision herein to the contrary notwithstanding, Licensee shall be liable for, and shall indemnify and hold the City harmless from all damages, causes of action, and claims arising out of or in connection with Licensee's installation, operation, maintenance or removal of the Improvements permitted under this Agreement.

### **III. FEE**

3.01. No annual fee shall be due in connection with this Agreement.

### **IV. CITY'S RIGHTS TO LICENSED PROPERTY**

4.01. This Agreement is expressly subject and subordinate to the present and future right of the City, its successors, assigns, lessees, grantees, and Licensees, to construct, install, establish, maintain, use, operate, and renew any public utilities facilities, franchised public utilities, rights-of-way, roadways, or streets on, beneath, or above the surface of the licensed property.

4.02. Said uses of the licensed property by the City are permitted even though such use may substantially interfere with or destroy Licensee's use of the licensed property, or the Improvements. In case of a declared emergency, damage to or destruction of Licensee's property shall be at no charge, cost, claim, or liability to the City, its agents, contractors, officers, or employees.

4.03. Notwithstanding any provisions in this Agreement to the contrary, the City retains the right to enter upon the licensed property, at any time and without notice, assuming no obligation to Licensee, to remove any of the licensed improvements or alterations thereof whenever such removal is deemed necessary for: (a) exercising the City's rights or duties with respect to the Licensed Property; (b) protecting persons or property; or (c) the public health or safety with respect to the Licensed Property.

### **V. INSURANCE**

5.01. Licensee shall, at its sole expense, provide a commercial general liability insurance policy, written by a company acceptable to the City and licensed to do business in Texas, with a combined single limit of not less than \$600,000.00, which coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. Such insurance coverage shall specifically name the City as an additional-insured. This insurance coverage shall cover all perils arising from the activities of Licensee, its officers, employees, agents, or contractors, relative to this Agreement, or otherwise within the public right-of-way and within the Licensed Property. Licensee shall be responsible for any deductibles stated in the policy. The amount of such coverage may be increased from time to time as may be deemed necessary and prudent by the City and the Licensee based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. A certificate of insurance evidencing such coverage shall be delivered to the City Secretary of the City within thirty (30) days of the Effective Date of this Agreement.

5.02 Licensee shall not cause any insurance to be canceled nor permit any insurance to lapse.



All insurance certificates shall include a clause to the effect that the policy shall not be canceled, reduced, restricted or otherwise limited until forty-five (45) days after the City has received written notice as evidenced by a return receipt of registered or certified mail. Notwithstanding the foregoing, in the event obtaining such provision for prior notice to the City is not reasonably available, Licensee agrees to give the City written notice of any suspension, cancellation, non-renewal or material change in coverage of the insurance policy required to be obtained and maintained by the Licensee under the terms of this Agreement. Within ten (10) days after a suspension, cancellation or non-renewal of coverage, Licensee shall provide a replacement certificate of insurance to the City. The City shall have the option to suspend Licensee's authorization and liability under this Agreement should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

## **VI. INDEMNIFICATION**

6.01. Licensee shall indemnify, defend, and hold harmless the City and its officers, agents and employees against all claims, suits, demands, judgments, damage, costs, losses, expenses, including attorney's fees, or other liability for personal injury, death, or damage to any person or property which arises from or is in any manner caused by the activities of the Licensee under this Agreement, including any acts or negligent omissions of the Licensee, and its agents, officers, directors, or employees, while in the exercise or performance of the rights or duties under this Agreement. This indemnification provision, however shall not apply to any claims, suits, demands, judgments, damage, costs, losses, or expenses arising solely from the negligent or willful acts or omissions of the City; provided that for the purposes of the foregoing, the City's entering into this Agreement shall not be deemed to be a "negligent or willful act."

## **VII. CONDITIONS**

7.01. Licensee's Responsibilities. Licensee shall be responsible for any and all damage to or repair of the Improvements or damage to the Licensed Property caused as a result of acts or omissions by Licensee, its agents, officers, directors, or employees. Further, Licensee shall reimburse the City for all costs of replacing or repairing any property of the City or of others which was damaged or destroyed as a result of activities under this Agreement by, or on behalf of, Licensee.

7.02. Maintenance. Licensee shall maintain the licensed property and the Improvements by maintaining the Improvements in good condition and making any necessary repairs to the Improvements at its expense. Licensee shall be responsible for any costs associated with electrical usage as a result of the Improvements.

7.03. Modification or Removal of Improvements. Licensee agrees that modification or removal of the Improvements shall be at Licensee's expense. Licensee shall obtain the proper permits prior to modification of the Improvements. Modification or removal shall be at Licensee's sole discretion, except where otherwise provided by this Agreement. This Agreement, until its expiration or revocation shall run as a covenant with the land, and the terms and conditions of this Agreement shall be binding on the grantees, successors and assigns of Licensee. Licensee shall

cause any immediate successors-in-interest to have actual notice of this agreement.

7.04. Default. In the event that Licensee fails to maintain the Licensed Property or otherwise comply with the terms or conditions as set forth herein, the City shall give Licensee written notice thereof, by registered or certified mail, return receipt requested, to the address set forth below. Licensee shall have thirty (30) days from the date of receipt of such notice to take action to remedy the failure complained of, and, if Licensee does not satisfactorily remedy the same within the thirty (30) day period, the City may terminate this license.

City:

City of Manor  
Attn: City Manager  
105 E. Eggleston Street  
Manor, Texas 78653

with a copy to:  
The Knight Law Firm, LLP  
Attn: Paige Saenz  
223 West Anderson Lane, Suite A-105  
Austin, Texas 78752

Licensee:  
c/o PS Property Management  
1490 Rusk Road #301  
Round Rock, TX 78665

with a copy to:  
Niemann & Heyer LLP, attn: Connie Heyer  
1122 Colorado Street, Suite 313  
Austin, TX 78701

7.05. Remedies. The Licensee agrees that in the event of any default on its part under this Agreement, the City shall have available to it equitable remedies including, without limitation, the right of the City to obtain a writ of mandamus or an injunction, or seek specific performance against the Licensee to enforce the Licensee's obligations under this Agreement.

7.06. Compliance. Notwithstanding any other term, provision or conditions of this Agreement, subject only to prior written notification to the Licensee, this Agreement is revocable by the City if Licensee fails to comply with the terms and conditions of this Agreement or otherwise fails to comply with the terms and conditions of this Agreement, including, but not limited to, the insurance requirements specified herein.

## **VIII. COMMENCEMENT AND TERMINATION**

8.01. This Agreement shall begin with the effective date set forth above and continue thereafter for so long as the Licensed Property shall be used for the purposes set forth herein, unless otherwise terminated. If Licensee abandons construction or maintenance of all or any part of the Improvements or Licensed Property as set forth in this Agreement, then this Agreement, shall expire and terminate following thirty (30) days written notice to the Licensee if such abandonment has not been remedied by the Licensee within such period; the City shall thereafter have the same complete title to the Licensed Property so abandoned as though this Agreement had never been made and shall have the right to enter the Licensed Property and terminate the rights of Licensee, its successors and assigns hereunder. All installations of Licensee not removed shall be deemed property of the City as of the time abandoned.

## **XI. TERMINATION**

9.01. Termination by Licensee. This Agreement may be terminated by Licensee by delivering written notice of termination to the City not later than thirty (30) days before the effective date of termination. If Licensee so terminates, then it shall remove all installations, other than the Improvements, that it made from the Licensed Property within the thirty (30) day notice period at its sole cost and expense. Failure to do so shall constitute a breach of this Agreement.

9.02. Termination by City. Subject to prior written notification to Licensee or its successor-in-interest, this Agreement is revocable by the City if:

- (a) The licensed Improvements, or a portion of them, interfere with the City's right-of-way;
- (b) Use of the right-of-way area becomes necessary for a public purpose;
- (c) The licensed Improvements, or a portion of them, constitute a danger to the public which the City deems not be remediable by alteration or maintenance of such improvements;
- (d) Despite thirty (30) days written notice to Licensee, maintenance or alteration necessary to alleviate a danger to the public has not been made; or
- (e) Licensee fails to comply with the terms and conditions of this Agreement including, but not limited to any insurance or license fee requirements specified herein.

## **X. EMINENT DOMAIN**

10.01. If eminent domain is exerted on the Licensed Property by paramount authority, then the City will, to the extent permitted by law, cooperate with Licensee to effect the removal of Licensee's affected installations and improvements thereon, at Licensee's sole expense. Licensee shall be entitled to retain all monies paid by the condemning authority to Licensee for Licensee's installations taken, if any.

## **XI. INTERPRETATION**

11.01. Although drawn by the City, this Agreement shall, in the event of any dispute over its intent, meaning, or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

## **XII. APPLICATION OF LAW**

12.01. This Agreement shall be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts shall be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.

## **XIII. VENUE**

13.01. Venue for all lawsuits concerning this Agreement will be in Travis County, Texas.

## **XIV. COVENANT RUNNING WITH LAND; WAIVER OF DEFAULT**

14.01. This Agreement and all of the covenants herein shall run with the land; therefore, the conditions set forth herein shall inure to and bind each party's successors and assigns. Either party may waive any default of the other at any time by written instrument, without affecting or impairing any right arising from any subsequent or other default.

## **XV. ASSIGNMENT**

15.01. Licensee shall not assign, sublet or transfer its interest in this Agreement without the written consent of the City, which consent shall not be unreasonably withheld. Subject to the assignee's compliance with the insurance requirements set forth herein, if any, the Licensee shall furnish to the City a copy of any such assignment or transfer of any of the Licensee's rights in this Agreement, including the name, address, and contact person of the assignee, along with the date of assignment or transfer.

**ACCEPTED** this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

THE CITY:  
CITY OF MANOR

\_\_\_\_\_  
Dr. Larry Wallace Jr., Mayor

ATTEST:

By: \_\_\_\_\_  
Name: Lluvia T. Almaraz, TRMC  
Title: City Secretary

LICENSEE:

Hamilton Point Homeowners Association, Inc.

By: [Signature]  
Name: RAUL HERNANDEZ  
Title: BOARD PRESIDENT

STATE OF TEXAS                   §  
                                          §  
COUNTY OF TRAVIS           §

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Dr. Larry Wallace Jr., as Mayor of THE CITY OF MANOR, TEXAS, a home-rule municipality, on behalf of said City.

\_\_\_\_\_  
Notary Public, State of Texas

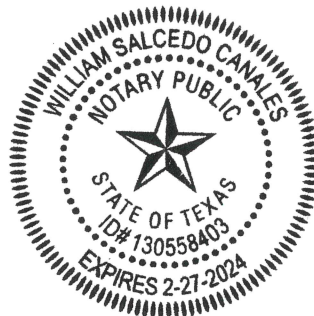
STATE OF TEXAS                   §  
                                          §  
COUNTY OF WILLIAMSON   §

This instrument was acknowledged before me on this 3 day of APRIL, 2020 by RAUL HERNANDEZ, as BOARD PRESIDENT of HAMILTON POINT HOA, a NON-PROFIT ASSOC., on behalf of said \_\_\_\_\_.

[Signature]  
Notary Public, State of Texas

AFTER RECORDING, PLEASE RETURN TO:

City of Manor  
Attn: City Secretary  
105 E. Eggleston Street  
Manor, Texas 78653



**Exhibit "A"**

**[map attachment follows this page]**

The four sign posts are located adjacent to the four mailbox clusters throughout the Hamilton Point neighborhood as shown on the attached map. The Hamilton Point subdivision land is further described in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Hamilton Point, Phase A, filed as Document no. 2002052654 of the Official Public Records of Travis County, Texas.







## Trail Sign with Post - Brown



Post instructions, directories or maps at parks or on camp trails.

- Shatterproof, clear plastic windows with lock.
- Thick 1/4" corkboard.
- Recycled plastic frame and post are weather and graffiti resistant.

Enlarge

MODEL NO.	DESCRIPTION	SIZE L x W x H	WT. (LBS.)	PRICE EACH		ADD TO CART
				1	3+	
H-7975BR	Trail Sign w/ Post	20 x 4 x 100"	70	\$399	\$379	1 <input type="button" value="ADD"/>

[- Additional Info](#) [+ Shopping Lists](#) [Request a Catalog](#)

### DIMENSIONS:

- Sign Without Posts: 20 x 4 x 29" (L x W x H)
- Cork (Overall): 17 x 23" (W x H)
- Depth from Cork to Inner Window Panel: 1 3/4"
- Posts: 3 1/2 x 3 1/2 x 72" (L x W x H)

### RECYCLING:

- Recycled Content: 100%

### SPECIFICATIONS:

- UV Protectant
  - Does not need to be sealed, painted, or stained; cannot rot.

Availability: [In Stock](#)

Unit Weight: 57 lbs.

Last ordered 4 on  
12/09/2019

[Instructions](#)

[Catalog Page 397](#)

[Email Item](#)

Country of Origin: USA





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/27/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Brady, Chapman, Holland & Associates, Inc. 10055 West Gulf Bank Houston TX 77040	<b>CONTACT NAME:</b> <b>PHONE (A/C, No, Ext):</b> 713-688-1500 <b>E-MAIL ADDRESS:</b> ehoacerts@bch-insurance.com <b>FAX (A/C, No):</b> 713-688-7967
<b>INSURED</b> Hamilton Point Homeowners Association, Inc. c/o PS Property Management Company P.O. Box 7079 Round Rock TX 78683	<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Central Mutual Insurance Co. <b>INSURER B:</b> Continental Casualty Co. (CNA) <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>

**COVERAGES****CERTIFICATE NUMBER:** 1745697169**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> **Hired/Non-Owned Auto Liab GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			CLP9943047	1/1/2020	1/1/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Hired/Non-Owned \$ Included**
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B B A	Crime*** Directors & Officers Liability Property			618851560 618851560 CLP9943047	1/1/2020 1/1/2020 1/1/2020	1/1/2021 1/1/2021 1/1/2021	\$25,000 \$1,000,000 \$25,000*

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

\*Property Deductible is \$1,000 except 1% with \$2,500 Minimum for Wind &amp; Hail; Replacement Cost applies to Common Area Property

\*\*Hired &amp; Non-Owned Auto Liability coverage is included in the General Liability Each Occurrence Limit and not subject to the General Liability Aggregate.

\*\*\*Includes Designated Property Manager as Employee

General liability contains a Blanket Additional Insured and Blanket Waiver of Subrogation endorsement which applies to the certificate holder when there is a written contract in place per form #8-19320714

**CERTIFICATE HOLDER****CANCELLATION**City of Manor  
Attn: City Manager  
105 E. Eggleston Street  
Manor TX 78653

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AGENDA ITEM NO. <sup>4</sup>\_\_\_\_\_

## AGENDA ITEM SUMMARY FORM

PROPOSED MEETING DATE: April 23, 2020

PREPARED BY: Scott Dunlop, Assistant Development Director

DEPARTMENT: Development Services

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### AGENDA ITEM DESCRIPTION:

Consideration, discussion, and possible action on a development agreement for the Grassdale at Manor Apartments and the City of Manor.

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### BACKGROUND/SUMMARY:

See extended summary form

PRESENTATION: ☐YES ☐NO

ATTACHMENTS: ☐YES (IF YES, LIST IN ORDER TO BE PRESENTED) ☐NO

Extended Summary  
Development Agreement  
Preliminary Site Layout

---

### STAFF RECOMMENDATION:

It is City staff's recommendation that the City Council approve a development agreement for the Grassdale at Manor Apartments and the City of Manor.

PLANNING & ZONING COMMISSION: ☐RECOMMENDED APPROVAL ☐DISAPPROVAL ☐NONE

#### **Agenda Item 4 Background Summary**

This DA has 3 main provisions. 1. A minimum of 40% masonry (stone, brick, stucco) 2. Bufferyard standards (enhanced landscaping and fencing) on the south property line which will abut future single family. 3. Reducing the required parking spaces to 1.8 spaces per unit.

The applicant processed the parking reduction request through the BOA but only received 3 affirmative votes of the 4 present members (BOA needs 4 affirmative votes to pass). The same request of 1.8 spaces had previously been approved by the Council before the BOA was formed on a different project (The Emerald on 4/3/19) and by the BOA in October on a different project (Manor Commons Apts on 10/23/19). The parking code was amended in February 2020 to reflect these approvals to allow multi-family projects to achieve a 1.8 parking ratio depending on the unit type mix. This project, The Grassdale, is vested under our old code and parking requirements. The member of the BOA who denied the request at the Feb. 23rd BOA meeting had not been appointed to the Board by the October meeting so was not present when the parking reduction request was granted for the Manor Commons Apts. They were concerned the project would be under-parked. Previous comparisons of parking requirements of surrounding communities had shown Manor required more parking (+ 8% to 14%) than other area cities (Austin, Cedar Park, Pflugerville, Georgetown, Leander), which was the basis for the past approvals and the code modification.

Our code had two conflicting multi-family parking provisions: 2 per unit and 2 per 1 & 2 bedroom plus .5 for each additional bedroom. These calculations result in requiring either 640 or 668 spaces. The Grassdale is 156 1-bedroom, 108 2-bedroom, and 56 3-bedroom. The request for 1.8 spaces per unit is roughly about a 14% reduction from the 668 spaces ( $668 \times .86 = 575$ ). 320 units at 1.8 spaces is 576 and they are proposing 579.

The developer had the option to appeal the BOA decision in district court or request a development agreement and agree to heightened development standards (masonry and bufferyard), which the other multi-family projects who were granted the parking reduction are not subject too so this project, The Grassdale, is providing more to achieve the 1.8 parking ratio where the other projects (Emerald, Manor Commons) were not required to provide anything additional for their approvals.

## **DEVELOPMENT AGREEMENT (Grassdale at Manor Apartments)**

This Development Agreement (the “Agreement”) is made and entered into, effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2020 (the “Effective Date”), by and between the **City of Manor, Texas**, a Texas home rule municipal corporation (the “City”), and **The Grassdale at Manor, LLC**, a Texas limited liability company (the “Developer”). The City and the Developer are sometimes referred to herein as the “Parties.” The Parties agree as follows.

### **Article I. Purpose; Consideration**

**1.01. Purpose.** The Developer wishes to provide for certain development standards related to masonry, bufferyard and parking on that certain 14.22 acre tract, more or less, located in Travis, Texas, being more particularly described in **Exhibit “A”** attached hereto and incorporated herein for all purposes (the “Property”) in relation to construction of a multi-family development on the Property (the “Project”).

**1.02. Benefits.** Developer will benefit from the certainty and assurance of the obligations related to the development standards provided for herein. The City will benefit from this Agreement by virtue of obtaining development standards that include masonry and bufferyard requirements as provided herein. The City is agreeable to the development standards for the Project under the terms and conditions set forth in this Agreement.

**1.03. Consideration.** The benefits to the Parties set forth in this Article I., plus the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.

### **Article II. Term; Termination**

**Section 2.01. Term.** The term of this Agreement shall be five (5) years from the Effective Date hereof, subject to earlier termination as provided in this Agreement.

**Section 2.02. Termination.** The Parties further mutually agree that this Agreement shall be in full force and effect upon the date above first written, provided that the City may terminate this Agreement if Developer fails to comply with this Agreement or fails to meet any deadlines imposed by this Agreement or the City’s ordinances subject to the notice and cure provisions in Section 5.01.

### **Article III. Development Standards**

**Section 3.01. Masonry.** The Property shall have a minimum of forty percent (40%) overall façade masonry. Percent calculations shall be based on total exterior facades excluding window and door openings. Masonry shall be considered stone, brick, or cement stucco and shall exclude cementitious planking.

**Section 3.02. Bufferyard.** The bufferyard for the Property shall be in accordance with the

bufferyard requirements set forth in the City's Code of Ordinances and as provided in **Exhibit "B"**, attached hereto and incorporated herein for all purposes (the "Bufferyard Requirements").

**Section 3.03. Parking.** A minimum of 1.8 spaces per unit (or a total of 579 cars) shall be allowed for the Property.

#### **Article IV. Assignment of Commitments and Obligations**

**Section 4.01. Assignment of Commitments and Obligations.** The Developer's rights and obligations under this Agreement may be assigned in whole or part, to one (1) or more purchasers of all or part of the Property. In the event Developer(s) assign all of their respective rights under this Agreement in conjunction with the conveyance of any unplatted portion of the Property, a written assignment of developer status must be filed of record in the Official Public Records of Travis County, Texas in order to be effective. Any assignment of Developer's rights and obligations hereunder will not release Developer(s) of their respective obligations under this Agreement for the assigned portion of the Property until the City Council has approved the written assignment; provided, however, the City shall not unreasonably deny, delay, or condition its approval of the assignment.

#### **Article V. Default and Related Provisions**

**5.01. Default.** Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of fourteen (14) business days after receipt by such party of notice of default from the other party. Upon the passage of fourteen (14) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement; provided that if the nature of the default is that it cannot reasonably be cured within the fourteen (14) business day period, the defaulting party shall have a longer period of time as may be reasonably necessary to cure the default in question; but in no event more than sixty (60) days. In the event of default, the non-defaulting party to this Agreement may pursue the remedy of specific performance or other equitable legal remedy not inconsistent with this Agreement. As an additional remedy, the City may disapprove permit applications that do not comply with this Agreement. All remedies will be cumulative and the pursuit of one authorized remedy will not constitute an election of remedies or a waiver of the right to pursue any other authorized remedy.

**5.02. Reservation of Rights.** To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws, and neither party waives any legal right or defense available under law or in equity.

**5.03. Attorney's Fees.** In the event of action pursued in court to enforce rights under this Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees, incurred in connection with such action.

**5.04. Waiver.** Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement will not, regardless of length of time during which that failure continues, be deemed a waiver of that party's right to insist upon strict compliance with all terms

of this Agreement. In order to be effective as to a party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

#### **5.05. Force Majeure.**

- (a) The term "force majeure" as employed herein shall mean and refer to acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies, orders of any kind of the government of the United States, the State of Texas or any civil or military authority; insurrections; riots; epidemic; landslides; lightning, earthquakes; fires, hurricanes; storms, floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the party claiming such inability.
- (b) If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such force majeure to the other party within ten (10) days after the occurrence thereof. The obligations of the party giving such notice, to the extent effected by the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.
- (c) It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require that the settlement be unfavorable in the judgment of the party having the difficulty.

### **Article VI. Notices**

**6.01. Notice.** Any notice to be given hereunder by any party to another party shall be in writing and may be effected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the City shall be addressed:

City of Manor  
Attn: City Manager  
105 E. Eggleston Street  
Manor, Texas 78653

with copy to:

The Knight Law Firm, LLP

Attn: Paige H. Saenz  
223 West Anderson Lane, Suite A105  
Austin, Texas 78752

Any notice mailed to the Developer shall be addressed:

The Grassdale at Manor, LLC  
Attn: Michael L. Walker, CPM  
16051 Addison Road, Suite 201  
Addison, TX 75001

Any party may change the address for notice to it by giving notice of such change in accordance with the provisions of this section.

## **Article VII. Waiver of Alternative Benefits**

**7.01. Waiver of Alternative Benefits.** The Parties acknowledge the mutual promises and obligations of the Parties expressed herein are good, valuable and sufficient consideration for this Agreement. The Parties further acknowledge the City and Developer voluntarily elected the benefits and obligations of this Agreement, as opposed to the benefits available were Developer to have elected to develop the Property without the benefits and obligations of this Agreement, pursuant to and in compliance with the applicable City ordinances. Therefore, save and except the right to enforce the obligations of the City to perform each and all of the City's duties and obligations under this Agreement, Developer hereby waives any and all claims or causes of action against the City Developer may have for or with respect to any duty or obligation undertaken by Developer pursuant to this Agreement, including any benefits that may have been otherwise available to Developer but for this Agreement.

## **Article VIII. Miscellaneous Provisions**

**8.01. Agreement and Amendment.** This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties and may not be amended except by a writing approved by the City Council of the City that is signed by all Parties and dated subsequent to the date hereof.

**8.02. No Joint Venture.** The terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The City, its past, present and future officers, elected officials, employees and agents, do not assume any responsibilities or liabilities to any third party in connection with the development of the Property. The City enters into this Agreement in the exercise of its public duties and authority to provide for development of property within the City pursuant to its police powers and for the benefit and protection of the public health, safety, and welfare.

**8.03. No Third Party Beneficiaries.** This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a party, unless

expressly provided otherwise herein, or in a written instrument executed by both the City and the third party. Absent a written agreement between the City and third party providing otherwise, if a default occurs with respect to an obligation of the City under this Agreement, any notice of default or action seeking a remedy for such default must be made by the Owner.

**8.04. Effective Date.** The Effective Date of this Agreement is the defined date set forth in the first paragraph.

**8.05. Binding Obligations.** This Agreement shall be binding upon and inure to the benefit of the parties, their successors, and assigns.

**8.06. Texas Law Governs.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Travis County, Texas. Venue shall lie exclusively in Travis County, Texas.

**8.07. Severability.** If any provision of this Agreement shall be held as a matter of law to be unenforceable, such unenforceability shall not affect the enforceability of the remainder of this Agreement.

**8.08. Interpretation; Dates.** References made in the singular shall be deemed to include the plural and the masculine shall be deemed to include the feminine or neuter. If any date for performance of an obligation or exercise of a right set forth in this Agreement falls on a Saturday, Sunday or State of Texas holiday, such date shall be automatically extended to the next day which is not a Saturday, Sunday or State of Texas holiday.

**8.09. Signatory Warranty.** The signatories to this Agreement warrant that each has the authority to enter into this Agreement on behalf of the organization for which such signatory has executed this Agreement.

**8.10. Counterparts.** This Agreement may be executed in multiple counterparts, including by facsimile, and each such counterpart shall be deemed an original and all such counterparts shall be deemed one and the same instrument.

**8.11. Time is of the Essence.** It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

**8.12. Exhibits.** The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

Exhibit A – Property Description

Exhibit B – Bufferyard Requirements

*[Signature Pages Follow]*



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

**CITY:**

**City of Manor, Texas**

a Texas home-rule municipal corporation

By: \_\_\_\_\_  
Dr. Larry Wallace Jr., Mayor

Attest:

By: \_\_\_\_\_  
Lluvia T. Almaraz, City Secretary

**THE STATE OF TEXAS           §**  
**COUNTY OF TRAVIS           §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2020, by Dr. Larry Wallace Jr., Mayor of the City of Manor, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Texas

**DEVELOPER:**

**The Grassdale at Manor, LLC,**  
a Texas limited liability company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**THE STATE OF TEXAS           §**  
**COUNTY OF \_\_\_\_\_ §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2020, by  
\_\_\_\_\_, \_\_\_\_\_ of The Grassdale at Manor, a Texas limited liability company,  
on behalf of said company.

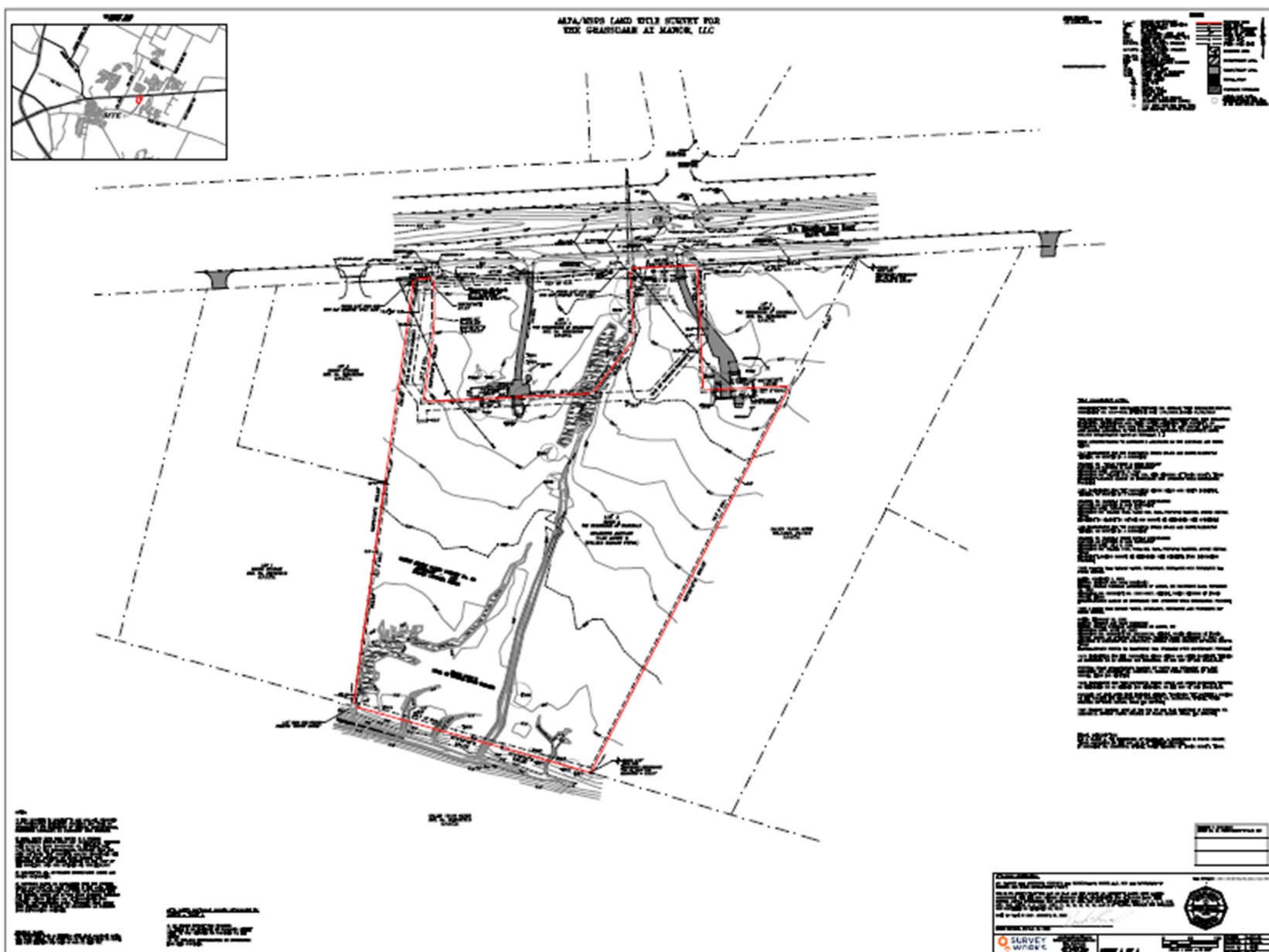
(SEAL)

\_\_\_\_\_  
Notary Public, State of Texas

## **EXHIBIT “A”**

### **Description of Property**

Lot 3, Block A, The Residences at Grassdale, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Document No. 202000015, Official Public Records of Travis County, Texas.



## **EXHIBIT “B”**

### **Bufferyard Requirements**

Bufferyard is intended to help minimize any negative effects of a commercial or multi-family use on an adjacent conforming single family residential property. The landscaping required within bufferyards shall be provided in addition to the site landscaping required in Section 15.03.005 of the City of Manor Code of Ordinances (the “Code”).

(a) Applicability

1. Refer to Chapter 14 of the Code for bufferyard requirements.

(b) Minimum Requirements

1. Four (4) large and/or medium evergreen trees and 15 shrubs per 100 linear feet of the site development boundary; and
2. Opaque bufferyard wall as required below; and
3. Minimum distance from the property line as established by the specific zoning district stated in Chapter 14 of the Code.

(c) Existing Conditions

1. When healthy, native trees and shrubs are located within the required bufferyard, the existing trees and shrubs shall not be removed or replaced with new plantings.
2. In areas where vegetation is not present, where nuisance vegetation (i.e. poison ivy) is dominant, or where diseased or dead trees or shrubs exist, bufferyard plantings shall be required as provided above.

(d) Permitted Encroachments

1. Passive recreation including pedestrian or bike trails provided that:
  - A. None of the required plantings are eliminated;
  - B. The total depth of the bufferyard from the property line is maintained; and
  - C. All other regulations of this Article are met; and
  - D. If approved by the Development Services Director.
2. Stormwater detention may be considered if:
  - A. Designed as a commonly known rain garden with engineered soils; and
  - B. None of the required plantings are eliminated; and

- C. The total depth of the bufferyard from the property line is maintained; and
- D. All other regulations of this Chapter are met; and
- E. If approved by the Development Services Director.

(e) Bufferyard Walls

1. Walls shall be at least six (6) feet and at most eight (8) feet tall. When the adjacent property and the bufferyard are at different elevations, the Development Services Director may require a fence or wall height, berms or other device greater than eight (8) feet to ensure adequate buffering.

2. Walls shall be placed within one (1) foot of the common property line when physically possible and preferably replace existing fence lines. In the event that there is a physical constraint that will not allow the construction of a wall on the common boundary line (including, but not limited to, the existence of a drainage way, easement, or existing vegetation), the Development Services Director may authorize the wall to be located further from the property line or an alternative screening type to be utilized.

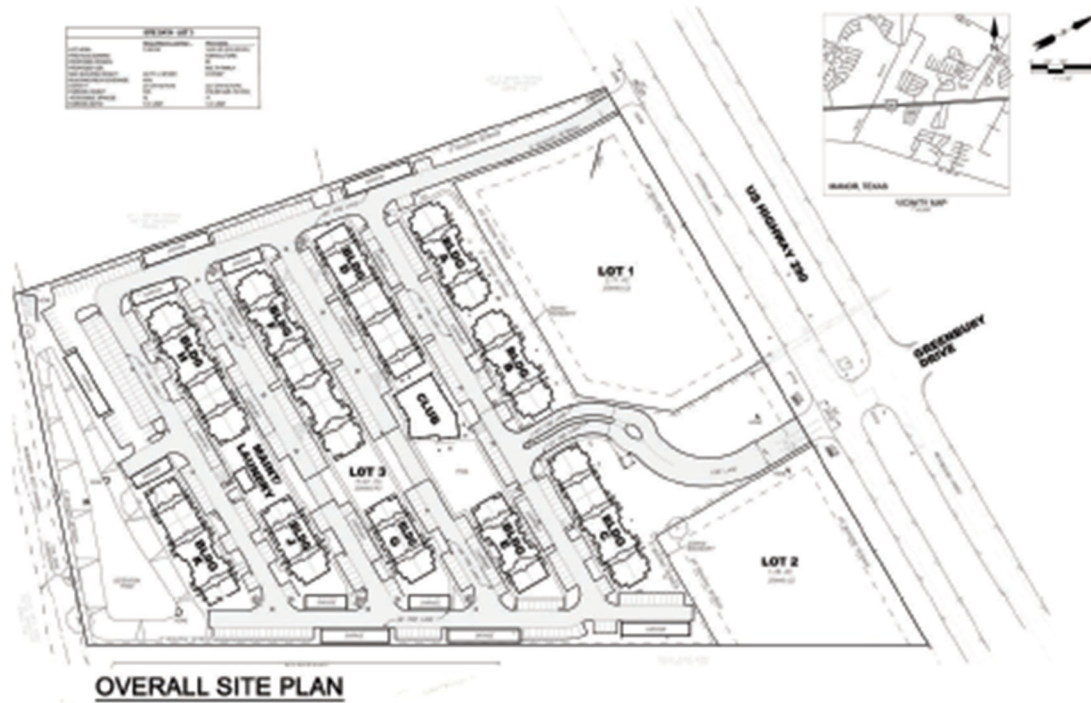
3. Walls shall not encroach into a main drive aisle.

4. When the adjacent use is across a street, no wall shall be required.

5. When the required bufferyard plantings are tripled or there is an existing tree line proposed for preservation abutting an existing fence, the Development Services Director may allow the wall or planting requirement to be reduced.

6. A building permit is required for walls taller than six (6) feet. Walls and masonry columns shall meet the footing standards prescribed by the building code for such structures.

7. Walls may be masonry, stone, concrete, masonry fencing, or a combination of these materials, and shall be finished on both sides. Walls may be accented by brick, stone, stucco, Exterior Insulation and Finish System (EIFS), or concrete columns.

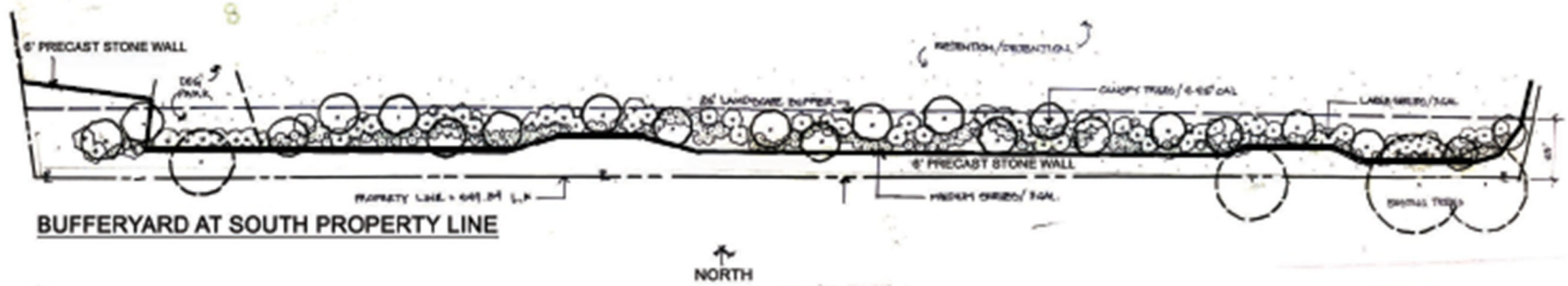


**PRECAST STONE WALL**

NOTE: LINEAR FEET OF SOUTH PROPERTY LINE = 550

TYPE OF PLANT	REQUIREMENT	TOTAL REQUIRED
MEDIUM SHADE TREES	1 PER 100 LF	22
SHRUBS	15 PER 100 LF	83

**PLANTING SCHEDULE**



**THE GRASSDALE AT MANOR APARTMENTS**  
 12601 E US 290 HWY EB  
 MANOR, TX 78653









AGENDA ITEM NO. <sup>5</sup>\_\_\_\_\_

### AGENDA ITEM SUMMARY FORM

PROPOSED MEETING DATE: April 23, 2020

PREPARED BY: Thomas Bolt, City Manager

DEPARTMENT: Administration

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AGENDA ITEM DESCRIPTION:

Consideration, discussion, and possible action on an Ordinance Continuing a State of Local Disaster Declaration for the City of Manor.

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BACKGROUND/SUMMARY:

PRESENTATION: ☐ YES ☒ NO

ATTACHMENTS: ☒ YES (IF YES, LIST IN ORDER TO BE PRESENTED) ☐ NO

Ordinance No. 573

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STAFF RECOMMENDATION:

It is City staff's recommendation that the City Council approve Ordinance No. 573 Continuing a State of Local Disaster Declaration for the City of Manor until June 1, 2020.

PLANNING & ZONING COMMISSION: ☐ RECOMMENDED APPROVAL ☐ DISAPPROVAL ☐ NONE

**ORDINANCE NO. 573**

**ORDINANCE OF THE CITY OF MANOR, TEXAS  
CONTINUING A DISASTER DECLARATION  
FOR THE CITY OF MANOR, TEXAS AND PROVIDING FOR A PENALTY AND  
ENFORCEMENT**

**WHEREAS**, the Mayor of the City of Manor, Texas declared a state of local disaster on March 18, 2020 due to imminent threat from COVID-19; and

**WHEREAS**, in accordance with Texas Government Code Section 418.108(b), the declaration of local state of disaster may not be continued or renewed for a period of more than seven (7) days except with the consent of the City Council of the City of Manor, Texas; and

**WHEREAS**, on January 30, 2020, the World Health Organization Director General declared the outbreak of COVID-19 as a Public Health Emergency of International Concern, advising countries to prepare for the containment, detection, isolation and case management, contract tracing and prevention of onward spread of the disease; and

**WHEREAS**, on March 5, 2020, the World Health Organization Director General urged aggressive preparedness and activation of emergency plans to aggressively change the trajectory of this epidemic; and

**WHEREAS**, on March 13, 2020, Governor Greg Abbott declared a state of disaster for all counties in the State of Texas due to COVID-19 posing an imminent threat of disaster in the state; and

**WHEREAS**, the Centers for Disease Control and Prevention is closely monitoring the number of COVID-19 cases that have spread in the United States; and

**WHEREAS**, Travis County has issued a declaration of disaster due to COVID-19 posing an imminent threat of disaster in the state; and

**WHEREAS**, the COVID-19 virus spreads between people who are in close contact with one another through respiratory droplets produced when an infected person coughs or sneezes; and

**WHEREAS**, large gatherings of unidentifiable individuals without necessary mitigation for the spread of infection may pose a risk for the spread of infectious disease; and

**WHEREAS**, the continued worldwide spread of COVID-19 presents an imminent threat of widespread illness, which requires emergency action; and

**WHEREAS**, the City Council of the City of Manor, Texas, pursuant to Texas Government Code, Section 418.108(b), consented to extend the declaration of local state of disaster for the City of Manor, Texas on March 18, 2020 until May 1, 2020; and

**WHEREAS**, Travis County Judge Sarah Eckhardt has signed Order No. 2020-7 which extends the previous Stay Home, Work Safe order and adds requirements for Face Coverings and is effective 11:59 p.m. on April 13, 2020, and will continue until 11:59 p.m. on May 8, 2020, unless terminated or modified by a subsequent order; and

**WHEREAS**, the City Council of the City of Manor, Texas, pursuant to Texas Government Code Section 418.108(b), desires to further continue the declaration of local state of disaster for the City of Manor, Texas.

**NOW THEREFORE, BE IT DECLARED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANOR, TEXAS, THAT:**

- 1.) The declaration of state of local disaster for the City of Manor, Texas resulting from threats posed by COVID-19 is hereby continued.
- 2.) This Declaration continues to activate the City's Emergency Management Plan, or the emergency management plan of another entity under which the City operates.
- 3.) This Declaration continues to activate the recovery and rehabilitation aspects of all applicable local or interjurisdictional emergency management plans and authorizes the furnishing of aid and assistance under the Declaration, and the preparedness and response aspects of the plans are activated as provided in the plans and such other measures as set forth in the Mayor's March 18, 2020 disaster declaration.
- 4.) This Declaration continuing a local state of disaster shall be effective on and from its date of issuance until June 1, 2020, provided however that this declaration may be terminated before the expiration of said time by subsequent order of the Mayor, and may be continued or renewed beyond said time only with the consent of the City Council of the City of Manor, Texas.
- 5.) The Mayor is authorized to issue orders or proclamations limiting gathering of individuals consistent with recommendations and actions from national, state, and county governments.
- 6.) In accordance with Texas Government Code §418.173, a person who knowingly or intentionally violates this Ordinance or a declaration, order or proclamation issued by the Order under Chapter 418, Government Code, the City Charter, or the emergency management plan, commits an offense, punishable by a fine up to \$1,000.00 or confinement in jail for a term that does not exceed 180 days.

- 7.) The sections, paragraphs, sentences, clauses and phrases of this Declaration are severable and if any phrase, clause, sentence, paragraph or section of this Declaration should be declared invalid by the final judgment or decree of any court or competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Declaration that can be given effect without the invalid provision, and to this end the provisions of this Order are severable.
- 8.) This Declaration shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
- 9.) This Declaration shall take effect immediately from and after its issuance.

This Ordinance is hereby **PASSED AND APPROVED**, this 23<sup>rd</sup> day of April 2020.

**THE CITY OF MANOR, TEXAS**

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Dr. Larry Wallace Jr., Mayor  
City of Manor, Texas

**ATTEST:**

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Lluvia T. Almaraz, City Secretary