



Agenda

Zoning Board of Adjustment Hearing & Regular Town Council Meeting

Monday October 27, 2025

Poetry Town Hall

5671 County Road 323, Poetry, TX 75160

5:30 pm

A. Call to Order

Roll Call for Quorum

Pledge of Allegiance

Invocation

Persons wishing to speak on any posted Hearing, Workshop or Regular Agenda item may do so when the individual item is opened for consideration by the Council. Speakers will be limited to (3) minutes. If a translator is needed, the speaker may be given up to (4) minutes. Sign up is required in advance either in-person prior to the start of the meeting or by emailing your request/comments to speak@poetrytexas.org at least 24 hours prior to the start of the meeting.

B. Zoning Board of Adjustment Hearing Agenda (approx. 1 hr. – citizen comments welcome)

1. Consideration of Zoning Variance for Hidden Oaks Estates III Property located at 10442 CR 2440, Poetry, TX (Mayor)

A zoning variance has been requested by the owner of the property who would like to split the property into two 1.0 acre lots. A variance would be required due to the road frontage width on both resulting lots being less than the 150 feet required by our zoning ordinance.

C. Items of Community Interest

Pursuant to Section 551.0415 of the Texas Government Code, the Town Council may report on the following items: 1) expression of thanks, congratulations, or condolences; 2) information about holiday schedules; 3) recognition of individuals; 4) reminders upcoming Town Council events; 5) about community events, and 6) announcements involving an imminent threat to public health and safety.

1. Thank you to Kaufman County Precinct #3 commissioner and road crew
2. Thank you to Hunt County Precinct #2 commissioner and road crew
3. Thank you to David Emard for helping with Sound and Video.
4. Thank you to Scott, Lora and Zoe Lehw for helping with meeting setup.
5. Thank you to Rockwall County Judge Frank New for inviting Poetry to join the Rockwall Road Consortium

D. Reports

1. Bishop Field MUD TCEQ Permit update (Anderson)

E. Consent Agenda

All items under Consent Agenda are considered to be routine by the Council and will be approved by a single motion. If

discussion is desired on an item, it will be removed from the Consent Agenda and will be considered separately as part of the Regular Agenda.

F. Regular Agenda (item sponsor)

1. Discuss and take action as necessary on Texas Municipal League FY 25-26 Insurance Invoice (Mayor)

We received an invoice from TML Intergovernmental Risk Pool for our annual insurance renewal. It includes the Workers' Comp component (\$1,075.00) that was approved in the 9/18/25 meeting. The total of the invoice is \$6,668.90 which leaves a balance (after the approved \$1,075.00) of \$5,593.90 still needing approval by the Council.

2. Discuss and take action as necessary on Solid Waste Ordinances and Agreements (Kendrick)
Our exclusive solid waste agreement and non-exclusive roll off agreements with Blackjack were signed December 29, 2023. The exclusive agreement is a 4-year term that expires December 31, 2027. The non-exclusive agreement is a 2-year term with a 1-year renewal and expires on December 21, 2025. This will be a discussion about the ordinance and those contracts and the desires of the Council moving forward. Dick Demien of Blackjack will attend to answer questions.

3. Discuss and take action as necessary on TXDOT Town of Poetry Street Sign Install Resolution (Bryant)

Councilman Bryant has been working for several months with the TXDOT Paris, TX office to try and take advantage of their Highway Safety Improvement Program to improve the signage in the Hunt County portion of Poetry. This resolution is required for them to proceed with giving us a proposal and schedule. If we are successful, we will approach the Kaufman TXDOT office to do similar in that part of Poetry. This is not a commitment to spend money at this time.

4. Discuss and take action as necessary on MCPA Auditor's Engagement Letter for FY 24-25 Audit (Mayor)

This item is to discuss and consider the engagement letter we recently received from our current audit firm to perform our FY 24-25 audit. The proposed cost is \$5,450.

G. General Public Comments

Comments are limited to three (3) minutes. If a translator is needed, the speaker may be given up to four (4) minutes. Sign up is required in advance either in-person prior to the start of the meeting or by emailing your request/comments to speak@poetrytexas.org at least 24 hours prior to the start of the meeting. The Texas Open Meetings Act restricts council members from discussing items not posted on the agenda. Action or responses to your remarks by council members (if not a posted agenda item) are limited to either a statement of fact or recitation of an existing policy or a proposal to place the subject on the agenda for a future meeting.

H. Adjournment

Note: The Town Council reserves the right to meet in Executive Session closed to the public at any time in the course of this meeting to discuss matters listed on the agenda, as authorized by the Texas Open Meetings Act, Texas Government Code, Chapter 551, including Sec. 551.071 (private consultation with the attorney for the Town); Sec. 551.072 (purchase, exchange, lease, or value of real property); Sec. 551.074 (personnel or to hear complaints against personnel); Sec. 551.076 (deployment, or specific occasions for implementation of security personnel or devices); and Sec. 551.087 (economic development negotiations). Any decision held on such matters will be taken or conducted in Open Session following the conclusion of the Executive Session.

Note: Disabled persons requiring special assistance are requested to notify the Town of Poetry 24 hours in advance of the meeting by calling the Mayor at 214-704-1593.

I certify that the above Notice of the Meeting and Agenda was posted at 5671 CR 323 Poetry,

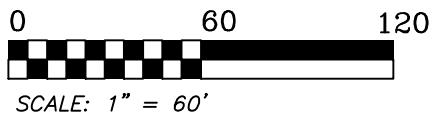
Texas on Tuesday, October 21st, 2025 by 6:30 pm and online at poetrytexas.org.

A handwritten signature in black ink, appearing to read 'Mike Jaffe', written in a cursive style.

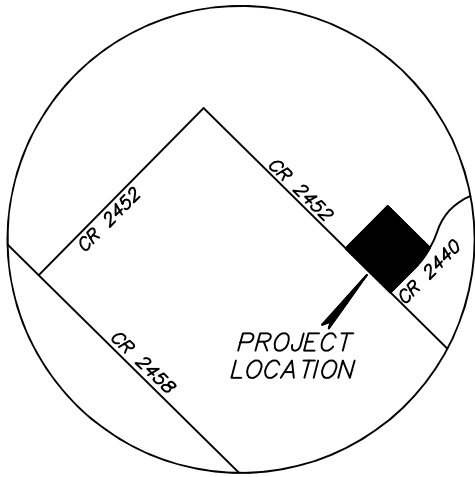
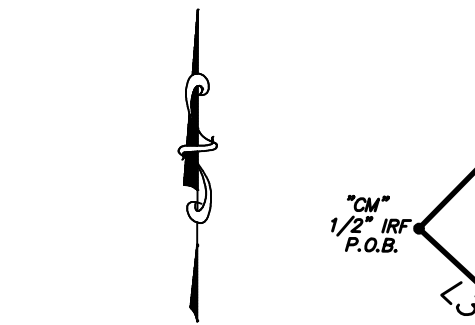
Mike Jaffe, Mayor

Curve	Radius	Length	Delta	Chord	Chord Bear.
C1	406.75'	129.28'	18°12'40"	128.74'	S 36°44'19" W

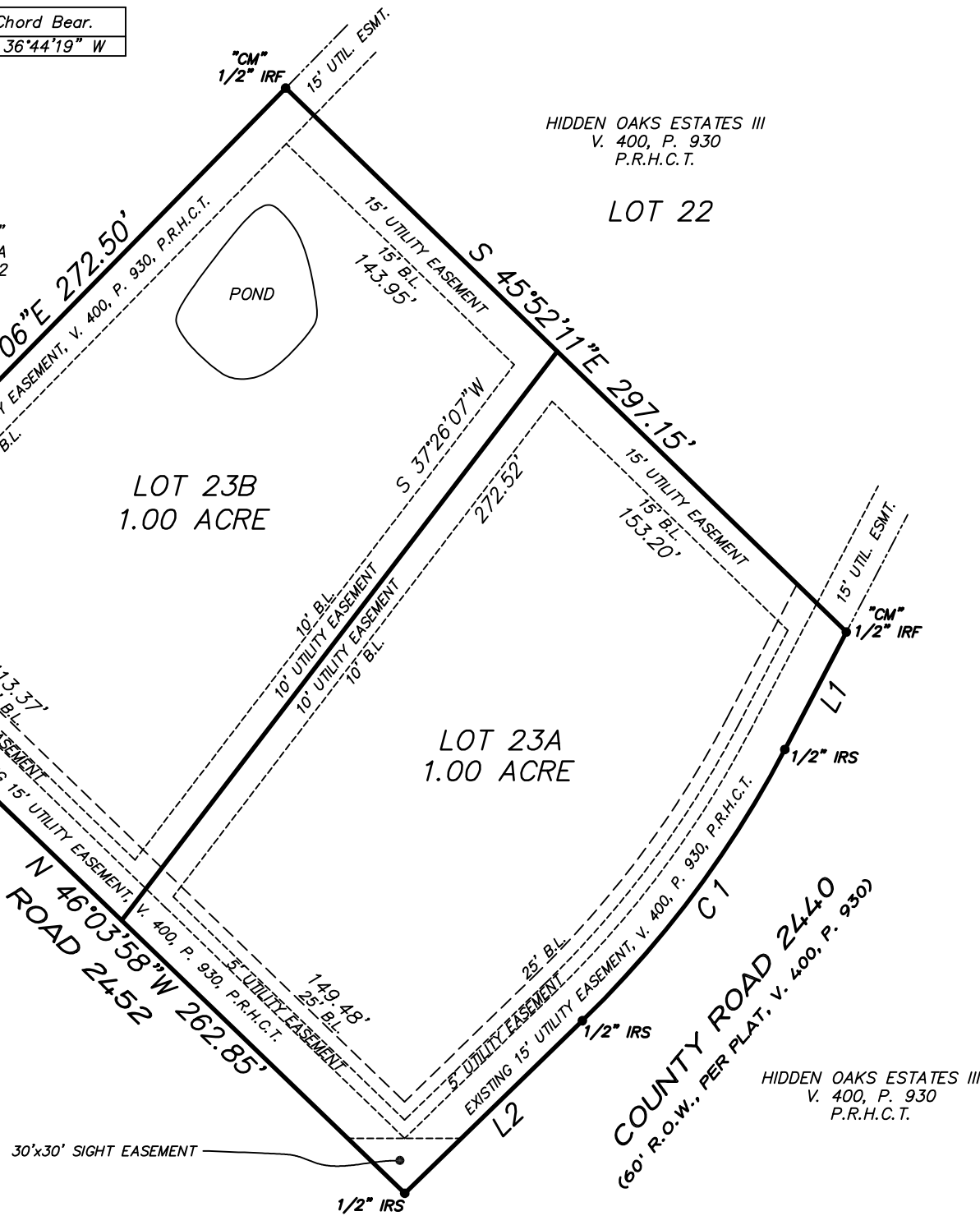
Course	Bearing	Distance
L1	S 27°37'59" W	50.40'
L2	S 45°50'39" W	94.20'
L3	N 47°10'01" W	63.90'



"NOT PLATTED"
OCTAVIN OCHOA
V. 1272, P. 692
O.P.R.H.C.T.



VICINITY MAP
N.T.S.



NOTES

- BEARING SOURCE: GPS, TEXAS STATE PLAIN NORTH CENTRAL ZONE
- "CM" = CONTROL MONUMENT
- All iron rods set are with caps stamped "FITE 5837"
- SEPTIC SYSTEM – Individual facilities licensed by Hunt County and installed prior to occupancy.
- Development and septic tank permits (if necessary) are required prior to construction of any improvements on any lot.
- No more than one single family detached dwelling shall be located on any lot.
- An adequate potable water supply will be immediately available to each lot in the subdivision.
- WATER SERVICE PROVIDER: Aqua Texas (already in service)
ELECTRIC SERVICE PROVIDER: FEC (already in service)
- All private streets (drives and roadways) will be signed in a manner that indicates its private status: Hunt County shall not be responsible for the maintenance of private roadways, drives, emergency access easements, recreation areas, and open spaces, and the owners shall be responsible for the maintenance of private streets, drives, emergency access easements, recreation areas and open spaces, and said owners agree to indemnify and save harmless Hunt County from all claims, damages and losses arising out of or resulting from performance of the obligations of said owners set forth in this paragraph.
- Blocking the flow of water or construction of improvements in drainage easements, and filling or obstruction of the floodway is prohibited.
- The existing creeks or drainage channels traversing along or across the addition will remain as open channels and will be maintained by the individual owners of the lot or lots that are traversed by or adjacent to the drainage courses along or across said lots.
- Hunt County will not be responsible for the maintenance and operation of drainage ways or the control of erosion.
- Hunt County will not be responsible for any damage, personal injury or loss of life or property occasioned by flooding or flooding conditions.
- Hunt County will not be responsible for the availability or delivery of any private well water in a subdivision.

- All culverts within any right-of-way require Hunt County permit Approval and must meet minimum County requirements.
- Hunt County will not maintain roadways or public improvements dedicated by this Plat except by an express order of the Commissioner's Court, entered of record in the minutes of the Commissioner's Court specifically identifying any roadway or public improvement and specifically accepting it for County maintenance.
- Easements: Any public utility, including Hunt County, shall have the right to remove and keep clear all or part of any building, fences, trees, overgrown shrubs or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any if the easements or right-of-ways shown on the Plat (or filed by separate instrument that is associated with said property); and any public utility, including Hunt County, shall have the right at all times an ingress and egress to and from upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone. Easements shall be maintained by property owners, Hunt County can remove trees or any other improvement(s) and does not have the responsibility to replace them.
- Construction not completed within two (2) years of the recording date shall be subject to the then current county standards and regulations. The County may require the subdivision to be re-platted.
- According to F.E.M.A. Flood Insurance Rate Map, Community Panel No. 48231C0600G, dated January 6, 2012, this property lies in Zone X. None of this property does appear to lie within a 100-year flood plain.
- SIGHT VISIBILITY RESTRICTION: No structure, object or plant of any type may obstruct vision from a height of twenty-four (24) inches to a height of ten (10) feet above the top of the curb or edge of pavement, including, but not limited to buildings, fences, walks, signs, trees, shrubs, cars, trucks, etc., within the sight visibility easement.
- Any preexisting building or buildings that is or are encroaching into the building lines and/or easements, as established by this plat, WILL NOT BE ALLOWED to be rebuilt or replaced in the same location if in the event the building(s) require being rebuilt or replacement caused by natural or unnatural means.

OWNER'S CERTIFICATE

WHEREAS, Navarro Contractors LLC is the owner of a tract of land situated in the John J. Riels Survey, Abstract No. 871, Hunt County, Texas, and being more particularly described as follows:

All that certain lot, tract or parcel of land situated in the John J. Riels Survey, Abstract No. 871, Hunt County, Texas, and being known as Lot 23 of Hidden Oaks Estates III, an addition to Hunt County as recorded in Volume 400, Page 930 of the Plat Records of Hunt County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod found for corner in the Northeast line of County Road 2452 and at the West corner of Lot 23;

THENCE N. 44 deg. 27 min. 06 sec. E. with the Northwest line of Lot 23, a distance of 272.50 feet to a 1/2" iron rod found for corner at the North corner of Lot 23;

THENCE S. 45 deg. 52 min. 11 sec. E. with the Northeast line of Lot 23, a distance of 297.15 feet to a 1/2" iron rod found corner at the East corner of Lot 23 and being in the Northwest line of County Road 2440

THENCE S. 27 deg. 37 min. 59 sec. W. with the Northwest line of said road, a distance of 50.40 feet to a 1/2" iron rod set for corner at the beginning of a tangent curve to the right;

THENCE in a Southwesterly direction with said curve in the Northwest line of said road, having a radius of 406.75 feet, a central angle of 18 deg. 12 min. 40 sec., a chord of S. 36 deg. 44 min. 19 sec. W. a distance of 128.74 feet and an arc length of 129.28 feet to a 1/2" iron rod set for corner at the end of said curve;

THENCE S. 45 deg. 50 min. 39 sec. W. with the Northwest line of said road, a distance of 94.20 feet to a 1/2" iron rod set for corner at the intersection of the Northwest line of County Road 2440 and the Northeast line of County Road 2452 and at the South corner of Lot 23;

THENCE N. 46 deg. 03 min. 58 sec. W. with the Northeast line of County Road 2452, a distance of 262.85 feet to a 1/2" iron rod found for corner at a turn in the Northeast line of said road;

THENCE N. 47 deg. 10 min. 01 sec. W. with the Northeast line of said road, a distance of 63.90 feet to the POINT OF BEGINNING and containing 2.00 acres of land more or less.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT, Navarro Contractors LLC, does hereby adopt this plat designating the herein above described property as REPLAT OF LOT 23 OF HIDDEN OAKS ESTATES III, an addition to Hunt County, and dedicates to the public use forever the streets or roads and easements shown herein, (if any) for the use and accommodation of any public utility desiring to use, or using same for the purpose of constructing, maintaining, adding to removing any or all their respective systems located therein.

WITNESS MY HAND, this the ____ day of _____, 2025.

Representative for Navarro Contractors LLC

Title

Printed Name

STATE OF TEXAS
COUNTY OF HUNT

BEFORE ME, the undersigned authority, a Notary Public, in and for the State of Texas, on this day appeared _____ whose names are subscribed to the foregoing instrument, and he acknowledged same for the purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the ____ day of _____, 2025.

Notary Public

CERTIFICATE OF APPROVAL

STATE OF TEXAS
COUNTY OF HUNT

KNOW ALL MEN BY THESE PRESENTS: I, BOBBY STOVALL, THE COUNTY JUDGE OF HUNT COUNTY, TEXAS, does hereby certify that this plat, with field notes hereon, having been fully presented to the Commissioners Court of Hunt County, Texas, and by the said Court duly considered, was on this day approved and the plat is authorized to be registered and recorded in the proper records of the County Clerk of Hunt County, Texas.

BOBBY STOVALL
COUNTY JUDGE, HUNT COUNTY, TEXAS

DATE

COMMISSIONER PRECINCT 1

DATE

COMMISSIONER PRECINCT 2

DATE

COMMISSIONER PRECINCT 3

DATE

COMMISSIONER PRECINCT 4

DATE

HEALTH DEPARTMENT

DATE

CERTIFICATE OF COMPLIANCE

THE UNDERSIGNED, THE COUNTY CLERK OF HUNT COUNTY, TEXAS, does hereby certify that on the ____ day of _____, 2025, that the Hunt County Commissioners Court, by appropriate minute order, did find that this plat is in compliance with applicable State and County subdivision regulations and did approve the same for filing in the Plat Records of Hunt County, Texas.

CERTIFIED THIS ____ DAY OF _____, 2025.

COUNTY CLERK
HUNT COUNTY, TEXAS

CERTIFICATE ACCEPTANCE OF DEDICATION

THE UNDERSIGNED, THE COUNTY CLERK OF HUNT COUNTY, TEXAS, does hereby certify that on the ____ day of _____, 2025, that the owner(s) of the real property described herein did execute and deliver unto Hunt County Commissioners Court their dedication of all streets, alleys, parks, easements, and other public areas to the public, a copy of which is affixed to the face of this plat: and the Hunt County Commissioners Court did by appropriate minute order accept the dedication of all streets, alleys, parks, easements, and other public areas on behalf of the public.

CERTIFIED THIS ____ DAY OF _____, 2025.

COUNTY CLERK
HUNT COUNTY, TEXAS

I, David W. Fite, Registered Professional Land Surveyor, State of Texas, do certify that the plat hereon was made from measurements performed on the ground, the lines and dimensions of said property being indicated by the plat.

"FOR REVIEW ONLY, NOT AN OFFICIAL DOCUMENT"
David W. Fite, R.P.L.S. No. 5837

REPLAT OF
LOT 23 OF HIDDEN OAKS ESTATES III
AN ADDITION TO HUNT COUNTY, TEXAS
JOHN J. RAILS SURVEY, ABSTRACT NO. 871
AUGUST 2025 2.00 ACRES

FITE & ASSOCIATES
LAND SURVEYING, LLC

SCALE: 1" = 60' DATE: 8-18-2025
JOB NO. FA250249 OF NO. _____
DRAWN: D.W.F. FIRM NO. 10194651
CHECK: D.W.F.

P.O. BOX 1466
GREENVILLE, TX 75403
903-355-8178
fiteandassociateslandsurveying.com

OWNER:

Navarro Contractors LLC
7563 CR 2584
Royse City, TX 75189

LEGAL NOTICE
TOWN OF POETRY
ZONING BOARD OF ADJUSTMENT VARIANCE PUBLIC HEARING

There will be a Public Hearing by the Town of Poetry, Board of Adjustment concerning a Variance request by Navarro Contractors LLC at a meeting scheduled for Monday, October 27, 2025, 6:30PM, followed by discussion and action on the same.

The request under consideration is to allow a Variance to the Zoning Ordinance MINIMUM LOT WIDTH for SINGLE FAMILY districts to allow the replating of the 2.0 acre lot to two 1.0 acre lots. The property is located at 10442 CR 2440, Poetry, TX. It is in the Hidden Oaks Estates III addition, Lot #23. It is situated in the John J. Rials Survey, Abstract No. 871, Hunt County Texas.

The Public Hearing will held at the Town of Poetry, Town Hall located at 5671 CR 323, Poetry, TX 75160. For more information or to comment prior to the hearing you can call Town Hall at (469) 902-7001 or email zoning@poetrytexas.org. To speak at the Hearing you can email speak@poetrytexas.org 24 hours prior to start of the meeting or you can sign up in person at the Hearing prior to its start.

Criteria for Approval

1. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily shared by others in the same neighborhood or zoning district;
2. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship or inequity upon or for the owner or occupant, as distinguished from a mere inconvenience, if the provisions of the regulations were literally enforced;
3. The request for a variance is not based exclusively upon a desire from the owner, occupant, or applicant for increased financial gain from the property, or to reduce an existing financial hardship;
4. The granting of the variances will not be materially detrimental or injurious to, or adversely affect the rights of, owners or residents of surrounding properties;
5. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, endanger the public safety, substantially diminish or impair property values within the neighborhood, or otherwise be opposed to the general spirit and intent of this Unified Development Code.

Zoning Variance Site Plan Requirements

The following information shall be shown on each site plan submitted to the Town with an application for a Zoning Variance. Drawing must be to scale with a graphic scale and North Arrow. One copy of the site plan shall be submitted initially with the application.

The general information and data listed below may not be applicable to all types of zoning variance. Please refer to the *Town of Poetry Zoning Ordinance*.

1. The location of all property lines and lot dimensions.
2. The location of all setbacks according to zoning.
3. The location of all existing structures with a solid line and proposed structures in a dashed line.
4. Include the dimensions of all structures, square footage and separation distances from the
5. structures.
6. The location and label of all adjacent streets, alleys, and access easements, to include known
7. utilities easements.
8. For signage, provide all details for signs.
9. The location of off-street parking areas.

Acknowledgement

I, being the undersigned applicant, certify that the information provided is true and correct to the best of my knowledge and belief and that I, or my authorized representative will present this case in a public hearing before the Zoning Board of Adjustment, unless I withdraw the request prior to public notice. Should I initiate withdrawal after public notice is given, the filing fee will be non-refundable. I also understand that all of the conditions, dimensions, building sizes, and/or parking areas depicted on the site plan shall be adhered to as amended and approved by the Board of Adjustment.

Signature of Applicant: _____

Printed Name of Applicant: _____

Date: _____

TOWN OF POETRY, TEXAS

ORDINANCE NO. 2024-03-01

AN ORDINANCE OF THE TOWN OF POETRY, TEXAS, ADOPTING A COMPREHENSIVE ZONING ORDINANCE AND MAP; PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town Council of the Town of Poetry, Texas, after having conducted multiple open meetings and public hearings, has approved a Comprehensive Zoning Ordinance and a Zoning Map of the Town on March 21, 2024, which Ordinance and Map are hereby formally adopted by this Ordinance; and

WHEREAS, the Town Council of the Town of Poetry, Texas, in compliance with the laws of the State of Texas with reference to the consideration and adoption of zoning regulations and classifications, has given requisite notices by publication and otherwise, and have held due hearings and afforded a full and fair hearing to all property owners generally and to all persons interested and situated in the Town and in the vicinity thereof, and the Town Council of the Town of Poetry is of the opinion and finds that the adoption of a Comprehensive Zoning Ordinance and Map is in the best interests of the public health, safety, morals and general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF POETRY, TEXAS:

SECTION 1: That the Comprehensive Zoning Ordinance and Zoning Map of the Town of Poetry, Texas, attached hereto as Exhibit A and B respectively, as heretofore approved, be and the same are hereby adopted as the official Comprehensive Zoning Ordinance and Zoning Map of the Town of Poetry, Texas. Copies of the Ordinance and Map shall be maintained in the office of the Town Secretary.

SECTION 2: All provisions of the Ordinances of the Town of Poetry, Texas, in conflict with the provisions of this ordinance as amended, be and are hereby repealed and all other provisions not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3: Should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance or the Comprehensive Zoning Ordinance, as adopted hereby, be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance or the Comprehensive Zoning Ordinance as a whole, or any part or provision thereof, other than the part declared to be invalid, illegal, or unconstitutional.

SECTION 4: Any person, firm, or corporation violating, disobeying, neglecting, refusing to comply with, or resisting the enforcement of any of the provisions or terms of the Comprehensive Zoning Ordinance shall be subject to a penalty of fine not to exceed the sum of

Exhibit "A"

Zoning Ordinance

Passed 3/21/24

AN ORDINANCE OF THE TOWN COUNCIL OF POETRY, TEXAS, ADOPTING A PLANNING AND ZONING CODE TO MAINTAIN RURAL INTEGRITY AND FURTHER THE OBJECTIVES OF THE COMPREHENSIVE PLAN.

WHEREAS, the Town of Poetry, Texas is a Type A General Law municipality of the State of Texas and is a municipal body politic and corporate, established and existing under the laws of the State of Texas; and

WHEREAS, the Town Council of Poetry is the governing body of the Town and is authorized by the Texas Local Government Code to adopt ordinances and rules that are necessary and proper for governing and maintaining the good government of the Town, the welfare of the municipality and its trade, commerce, and sanitation; and

WHEREAS, the Council is authorized under Chapter 211 of the Texas Local Government Code to regulate the use of land within the municipal boundaries of the Town to promote the health, safety, morals, general welfare, protection and promotion of areas of historical, cultural, or architectural importance and significance; and

WHEREAS, the Town of Poetry, Texas, cherishes its unique rural spirit and agricultural lifestyle, valuing the tranquil, peaceful life it provides to its residents; and

WHEREAS, in accordance with the Poetry Comprehensive Plan, the Town seeks to protect this lifestyle from encroachment, uphold the rights of its residents, prevent overcrowding and congestion, and regulate development consistent with rural living; and

WHEREAS, the Town intends to uphold the liberties of its citizens, acknowledging the importance of having as few rules as possible and ensuring that any rules instituted are consistent with rural life; and

WHEREAS, the Town intends to preserve its natural landscape, avoiding where possible the destruction of trees and environmentally sensitive areas, promoting the preservation of open space; and

WHEREAS, the Town Council finds and determines that the comprehensive zoning ordinance and regulations adopted herein are intended to accomplish the goals and objectives of the Town Council and that these regulations are in the best interests of the public health, safety, morals, and general welfare of the citizens of the Town of Poetry.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE
TOWN OF POETRY, TEXAS:**

SECTION 1. PURPOSE; APPLICABILITY

1.1. This Code shall be known as and may be cited as the Zoning Ordinance, or the comprehensive zoning ordinance, of the Town of Poetry, Texas.

1.2. The provisions of this ordinance are enacted to protect the public health, safety, morals, and general welfare, and to protect, preserve, and promote areas of historical, cultural, or architectural importance and significance. These provisions are specifically intended to:

- 1.2.1. Preserve and protect the Town's rural atmosphere by regulating and limiting the density of development;
- 1.2.2. Lessen congestion in the streets;
- 1.2.3. Secure safety from fire, panic, and other dangers;
- 1.2.4. Prevent the overcrowding of land;
- 1.2.5. Ensure the provision of adequate size of yards, courts, and open space for adequate light, air, and fire safety;
- 1.2.6. Conserve the value of buildings and land;
- 1.2.7. Avoid undue concentration of population;
- 1.2.8. Promote health, safety, morals, and the general welfare

1.3. The provisions of this ordinance shall apply to all land, buildings, structures, and uses thereof located within the Town of Poetry and its extraterritorial jurisdiction unless an exclusion is provided by the terms of this ordinance or as otherwise exempted by state law.

1.4. To the extent allowed by law, the provisions of this Code shall apply to all land, buildings, structures, and uses owned by government agencies, including all municipal, state, and federal lands, within the corporate limits of the Town and its extraterritorial jurisdiction.

1.5. No building or structure shall be erected, converted, enlarged, reconstructed, or altered for use, nor shall any land, building, or structure be used or changed, except in accordance with all of the applicable regulations established by this ordinance.

SECTION 2. ZONING DISTRICTS ESTABLISHED

2.1. Zoning Districts Identified

The Town of Poetry, Texas, is hereby divided into zoning districts as listed in the section.

ABBREVIATED DESIGNATION	ZONING DISTRICT NAME
AR	AR: Agrarian. Farm/cattle land and large residential properties (= or >5 acres)
SF-E	SF-E: Single Family Estate. Mid-sized residential properties (2.5 - <5 acres)
SF	SF: Single Family. Small residential properties (1 - <2.5 acres)
B	B: Business. Light retail and neighborhood services

2.2. Description and Purpose of Zoning Districts

AR- Agrarian Residential District: This district provides for the farming, ranching, residential, and gardening activities on land being utilized for these purposes. Density in this district is limited to one residential dwelling unit per 2.5 acres of the mother tract.

SF-E - Single-Family Residential - Estate: The SF-E district provides for residential use and development on large lots with a minimum lot size of 108900 square feet (two and a half acres). Density in this district is limited to one residential dwelling unit per 2.5 acres of the mother tract.

SF – Single Family Residential: This SF District provides for residential use and development on lots that are less than 108900 square feet (two and a half acres). Density in this district is limited to one residential dwelling unit per lot.

B - Business District - Light Retail, and Neighborhood Services. This district is intended for neighborhood shopping facilities and retail and/or commercial facilities of a service character. Uses developed under the standards of the B District are designed to provide a compatible relationship between the nonresidential use and development and adjacent residential areas.

SECTION 3. ZONING DISTRICT MAP

3.1. Zoning District Boundaries Delineated on Zoning District Map

The proposed boundaries of the zoning districts set out herein are delineated upon the Zoning District Map of the Town of Poetry, Texas, said map being hereby adopted as part of this ordinance as fully as if the same were set forth herein in detail.

3.2. Regulations for Maintaining Zoning District Map

Upon adoption, two (2) original, official, and identical copies of the Zoning District Map bearing the signature of the Mayor and attestation of the Town Secretary shall be filed and maintained as follows:

- 3.2.1. One copy shall be filed with the Town Secretary, to be retained and labeled as the "Original Zoning Map" and shall not be changed in any manner.
- 3.2.2. One copy shall be filed with the Town Secretary and shall be maintained up-to-date by posting thereon all changes and subsequent amendments. A written record (logbook) shall be kept by the Town Secretary of all changes made to the Zoning District Map.
- 3.2.3. Reproductions of the original and most current Zoning District Map may be made for information purposes.

SECTION 4. ZONING DISTRICT BOUNDARIES

4.1. Rules for Determining District Boundaries

The district boundary lines of zoning districts shown on the zoning district map are usually along streets and property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- 4.1.1. Boundaries indicated as approximately following streets shall be construed to follow the centerline of such street, highway, or alley.
- 4.1.2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lines.
- 4.1.3. Boundaries indicated as approximately following Town limits shall be construed as following Town limits.
- 4.1.4. Where physical features of the ground are at variance with information shown on the Official Zoning Map, or if there arises a question as to how a parcel of property is zoned and such question cannot be resolved, or the zoning of property is invalidated by a final judgment of a court of competent jurisdiction, the property shall be considered as AR - Agrarian District, temporarily.

SECTION 5. ZONING OF ANNEXED TERRITORY

5.1. Permanent Zoning Concurrent With Zoning

An area (or areas) being annexed to the Town of Poetry shall ordinarily be given permanent zoning concurrently with the annexation.

5.2. Temporary Classification

In instances in which the zoning of a newly annexed territory concurrently with the annexation is

not accomplished, the annexed territory shall be temporarily classified as AR – Agrarian District, until permanent zoning is established by the Town Council. The procedure for establishing permanent zoning of annexed territory shall conform to the procedure established by law for changes to zoning district boundaries. The Town Council shall determine a permanent zoning for such area as soon as practicable after annexation.

SECTION 6. COMPLIANCE WITH ZONING REGULATIONS & SIGNAGE

6.1. Exclusions/Grandfathering

Nothing herein contained shall require any change in the plans, construction, or designated use of a building under construction or the use of land at the time of the passage of this ordinance.

6.2. Signage

No off-premise or on-premise sign in excess of ten (10) feet in height, measured from the average grade of the property on which the sign is erected, shall be constructed or be allowed on any lot or tract in the Town or within the Town's extraterritorial jurisdiction unless authorized by a majority vote of the Town Council. The regulations contained within this ordinance pertaining to nonconforming structures shall apply to signs. Wall mounted signs shall not exceed the maximum height of the building. The total signs, wall mounted or freestanding, shall not exceed 160 square feet per building. There shall be no more than one freestanding sign per lot, excluding parking signs, menu signs for restaurant drive-throughs, and on-site directional signs. The square footage of wall mounted signs shall not exceed 20% of the square footage of the wall on which it is erected. The maximum size for any one sign shall be 64 square feet.

6.3 No waste water treatment facilities or plants and no wastewater transmission lines other than service lines to On-Site Septic Facilities to an individual residential dwelling are permitted within the Town.

SECTION 7. AR – AGRARIAN RESIDENTIAL

7.1. General Purpose and Description

This district provides for the continuance and use of land for residential, farming, ranching, raising, producing, or keeping plants or animals, or cultivation and management of other natural resources or farm products on land being utilized for these purposes. Accessory uses that are incidental to the permitted uses are also allowed, and may include dwellings for proprietors and family thereof, employees, barns, storage of grain, animal raising, feed preparation, and wholesale sales of products produced on-site. Density in this district will usually be no greater than one (1) single family dwelling unit per 2.5 acres of the mother tract and may include other buildings and structures incidental to agricultural use including barns, stables, and loafing sheds.

7.2. Permitted Uses

A building or premise shall be only for the following purposes:

- 7.2.1. Single family dwelling use;
- 7.2.2. Farming and raising of crops, fruits and vegetables;
- 7.2.3. Ranching and raising of livestock (excluding commercial feed lots);

- 7.2.4. Parks, playgrounds, community buildings, libraries, museums, and other public recreational facilities, police and fire stations, and similar public uses owned and/or operated by the Town or other public agency; and privately owned and maintained playgrounds and like recreation areas;
- 7.2.5. Churches and public and private schools; and
- 7.2.6. Such other uses as may be permitted with a Specific Use Permit.

7.3. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

7.4. Solid (non-transparent) fencing and solar panels shall not be placed or erected in the front yard setback.

SECTION 8. SF-E – SINGLE-FAMILY RESIDENTIAL – ESTATE

8.1. General Purpose and Description

The SF-E district provides for residential development and use on large lots with a minimum lot size of two and a half acres. Density in this district will usually be no greater than one (1) single family dwelling unit per 2.5 acres of the mother tract. Uses that are incidental to the permitted uses are also allowed.

8.2. Permitted Uses

A building, land, or premises in the SF-E District shall be used only for the following purposes:

- 8.2.1. Single family dwelling use;
- 8.2.2. Parks, playgrounds, community buildings, libraries, museums, and other public recreational facilities, police and fire stations, and similar public uses owned and/or operated by the Town or other public agency; and privately owned and maintained playgrounds and like recreation areas;
- 8.2.3. Churches and public and private schools; and
- 8.2.4. Such other uses as may be permitted with a Specific Use Permit.

8.3. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

8.4. Solid (non-transparent) fencing and solar panels shall not be placed or erected in the front yard setback.

SECTION 9 SF – SINGLE FAMILY RESIDENTIAL:

9.1. General Purpose and Description: This SF District provides for residential use and development on lots that are at least one acre but less than two and a half acres. Uses that are incidental to the permitted uses are also allowed. Density in this district is limited to one single family dwelling unit per lot.

9.2. Permitted Uses

A building or premise in an SF-E District shall be used only for the following purposes:

- 9.2.1. Single family dwelling use;
- 9.2.2. Parks, playgrounds, community buildings, libraries, museums, and other public recreational facilities, police and fire stations, and similar public uses owned and/or operated by the Town or other public agency; and privately owned and maintained playgrounds and like recreation areas;
- 9.2.3. Churches and public and private schools; and
- 9.2.4. Such other uses as may be permitted with a Specific Use Permit.

9.3. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

9.4. Solid (non-transparent) fencing and solar panels shall not be placed or erected in the front yard setback.

SECTION 10. B – BUSINESS – LIGHT RETAIL, AND NEIGHBORHOOD SERVICES

10.1. General Purpose and Description.

The Business District – B - is intended for neighborhood shopping facilities, and retail and/or commercial facilities of a service character for large lots with a minimum lot size of two and a half acres. The B District is established to accommodate the daily and frequent retail needs of the community as well as those that are incidental to agricultural uses. The following regulations shall apply to all uses in the district:

10.2. Permitted Uses

10.2.1. Offices such as:

- 10.2.1.1. Executive and administrative offices;
- 10.2.1.2. Business offices of a public utility, real estate, insurance, commercial or industrial establishment;
- 10.2.1.3. Medical, dental offices and clinics, legal, engineering, architectural, and similar professional offices, accounting, auditing, and bookkeeping service offices;
- 10.2.1.4. Finance agency offices and banks, including drive-through facilities;
- 10.2.1.5. Miscellaneous business services such as credit reporting agencies, stenographic services, business and management consulting services;
- 10.2.1.6. Offices of non-profit organizations;
- 10.2.1.7. Municipal and other governmental offices; and
- 10.2.1.8. Any other office in which goods or merchandise are not commercially created, displayed, stored, exchanged, or sold.

10.2.2. Retail sales and personal service shops and establishments as follows:

- 10.2.2.1. Clothing/cloth shops under 2500 square feet.
- 10.2.2.2. Feed/tack store;
- 10.2.2.3. Postal stores/service;
- 10.2.2.4. Restaurants serving food and beverages;
- 10.2.2.5 Self-storage;
- 10.2.2.5. Skin care or beauty or barber shops.

10.3. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

10.4. Solid (non-transparent) fencing and solar panels shall not be placed or erected in the front yard setback.

SECTION 11. USE OF LAND AND BUILDINGS

No land shall hereafter be used and no building or structure shall hereafter be occupied, used, erected, altered, removed, placed, demolished, or converted which is contrary to the following table. In addition to the uses specified in each of the zoning districts, the following additional uses are allowed in the designated districts (the letter "A" indicates an allowed use, the letter "S" indicates a use allowed only by Specific Use Permit, and a blank space means that the use is prohibited):

TYPE OF USE	AR	SF-E	SF	B
Accessory building	A	A	A	A
Carport	A	A	A	A
Garage, private	A	A	A	A
Home Occupation	A	A	A	A
Manufactured Housing, HUD-Code	A	A	A	
Manufactured Homes	A	A	A	
Stable, private	A	A	A	S

SECTION 12. CLASSIFICATION OF NEW AND UNLISTED USES

12.1. Procedure For Classifying New/Unlisted Uses

It is recognized that new types of land use will develop and forms of land use not anticipated may seek to locate in the Town. To provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

- 12.1.1. The Town Secretary shall refer the question concerning any new and unlisted use to the Town Council as to the zoning classification(s) into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount and nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic

material, and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer.

- 12.1.2. The Town Council shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts, in determining the zoning district or districts within which such use should be permitted.
- 12.1.3. The Town Council makes such determination concerning the classification of such use as is determined appropriate, based upon its findings. If the proposed use is substantially similar to an existing allowed use, the Town Council's determination shall be final. If the Council determines that the proposed use is not substantially similar to an allowed use, the Town Council may amend these regulations or allow the use by SUP.

SECTION 13. NONCONFORMING USES, STRUCTURES, AND LOTS

13.1. Uses in Existence at Time of Adoption of Ordinance

A nonconforming status shall exist when a use, structure, or lot that does not conform to the regulations prescribed in the district in which such use or structure is located was in existence prior to the adoption of this ordinance or an amendment rendering the use, structure or lot nonconforming.

13.2. Expansion of Nonconformity Prohibited

No nonconforming use, structure, or lot may be expanded or increased on or beyond the lot or tract upon which such nonconforming use or structure is located as of the effective date of this ordinance.

13.3. Repairs/Normal Maintenance on Nonconforming Uses Permitted

Repairs and normal maintenance may be made to a nonconforming building or structure.

13.4. Change of Nonconforming to Conforming Use

Any nonconforming use, structure, or lot may be changed to a conforming use, structure, or lot, and once such change is made, the use, structure, or lot shall not thereafter be changed back to a nonconforming use.

13.5. Abandonment/Discontinuation of Nonconformity

Whenever a nonconforming use or structure is abandoned, all nonconforming rights shall cease, and the use of the premises or structure shall thenceforth be in conformity with this ordinance. Abandonment shall involve the intent of the user or owner to discontinue a nonconforming operation and an act of discontinuance. Discontinuance of a nonconforming use or the vacancy of a nonconforming structure for a period of at least six (6) months shall be construed as prima facie proof of intent to abandon the nonconforming use or structure. Any nonconforming use occurring within a structure that is moved from the premises shall be considered to have been abandoned. Any nonconforming structure that is damaged or destroyed by fire, flood, or other natural causes shall terminate all nonconforming rights in and to the structure if the cost to repair the damage is at least 150% of the value of the structure.

13.6. One Main Building on a Lot or Tract

In single family residential districts, a lot shall have no more than one main building per 2.5 acres of the mother tract.

SECTION 14. PLANNING AND ZONING COMMISSION/BOARD OF ADJUSTMENTS

14.1. Organization and Appointment of Planning Commission

The Town Council shall serve as the Planning and Zoning Commission until such time as a separate Commission is deemed desirable and is established by the Town Council.

14.2. Organization and Appointment of Board of Adjustment

The Town Council shall serve as the Board of Adjustment until such time as a separate Board is deemed desirable and is established by the Town Council. When presiding as a Board of Adjustment, a quorum shall be at least four (4) members of the Town Council. When presiding as a Board of Adjustment, the Town Council shall have the authority to hear and consider appeals from orders of Town officials in zoning matters, variances based on unnecessary hardship, and special exceptions where the terms of an ordinance delegate the authority to consider special exceptions.

SECTION 15. DEFINITIONS

15.1 General Rules of Construction:

The following rules of construction shall apply to the interpretation of words used in this ordinance:

- 15.1.1: words used in the present tense include the future tense;
- 15.1.2: words used in the singular number include the plural number;
- 15.1.3: words in the plural number include the singular number;
- 15.1.4: the words "building" and "structure" are synonymous;
- 15.1.5: the words "lot", "plot" and "tract" are synonymous; and

15.1.6: the word "shall" is mandatory and not discretionary.

15.2 Definitions

The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory Use or Building - An accessory building or use is one which: (a) is subordinate to a main building or primary use; and (b) is located on the same lot as the main building or primary use. An accessory building is a structure that is not connected or attached to the main building by a common roof line.

Acre - An area of land consisting of 43,560 square feet. As used in these regulations, acreage is net, not gross; the area comprised by an acre of land does not include areas occupied by streets, alleys, and drainage ways.

Agrarian Driveways - Roads which allow for the accessing of non-residential portion of a property where activities are conducted, relating to or in support of farming, ranching, forestry and/or other agricultural endeavors. The surface of the driveway must be water permeable, i.e. No asphalt or concrete.

Building - Any structure built for the support, shelter, and enclosure of persons, animals, chattels, or movable property. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Building, Main or Primary - A building in which is conducted the principal use of the lot on which it is situated. Detached accessory buildings (not connected and sharing a common roof line) do not comprise the main or primary building.

Carport - A structure open on a minimum of two (2) sides designed or used to shelter vehicles.

Dwelling Unit - A building or portion thereof designed exclusively for residential occupancy, including dwelling units that may specifically be designated as one-family or single-family, and two-family. The phrase "dwelling unit" does not refer to buildings designed and used as hotels, boarding houses, rooming houses, multiple-family dwellings, and motels.

Driveway - A private vehicular access way interfacing with public roads, providing a connection between a public or private street, including access ways denoted as private roads, and a property. Driveways are intended for the ingress and egress of vehicles to and from the property.

Family - One or more persons related by blood, marriage, or adoption, or a group not to exceed four persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit and living as a single housekeeping unit.

Farm, Ranch, or Orchard - An area of five (5) acres or more that is used for growing of usual farm products and/or raising of usual farm products and animals and including the necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal

or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law. Farm, ranch, or orchard use shall not cause a hazard to health by reason of unsanitary conditions.

Garage, Private - A detached accessory building or portion of the main building designed for parking or temporary storage of automobiles of the occupants of the premises; if occupied by vehicles of others, it is a storage space.

Green Space - Land not included in individual building sites or parking lots.

Home Occupation - A gainful occupation or profession conducted by persons residing on the premises and conducted entirely within the dwelling or its accessory buildings. The use is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character of the residence or adversely affect the residential character of the neighborhood.

HUD-Code Manufactured Home - means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, built on a permanent chassis, designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities, transportable in one or more sections, and, in the traveling mode, at least eight body feet in width or at least 40 body feet in length, or, when erected on site, at least 320 square feet, includes the plumbing, heating, air conditioning, and electrical systems of the home, and does not include a recreational vehicle as defined by 24 C.F.R. 3282.8(g).

Lot - An undivided tract or parcel of land under one (1) ownership having frontage upon a public street or officially approved place, either occupied or to be occupied by a building or building group, together with accessory buildings, and used together with such yards and other open spaces as are required by this ordinance, which parcel of land is designated as a separate and distinct tract and is identified by a tract or lot number or symbol in a duly approved subdivision plat of record or in a survey.

Manufactured Housing and Manufactured Home - mean a HUD-code manufactured home or mobile home and collectively means and refers to both.

Mobile Home - means a structure constructed before June 15, 1976, built on a permanent chassis, designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities, transportable in one or more sections, and, in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet, and includes the plumbing, heating, air conditioning, and electrical systems of the home.

Mother Tract - A contiguous expanse of land that is owned and operated as a single, unified tract. This classification allows for a holistic management approach, disregarding traditional divisions such as tax jurisdictions, county boundaries, Town limits, and Extraterritorial Jurisdiction (ETJ) limits. It treats multiple plats or parcels of land, even if they straddle different administrative or legal boundaries, as one integrated entity for purposes of development, management, and regulation.

Nonconforming Lot - A parcel of land having less area, frontage, or dimensions than required in the district in which it is located, but which existed prior to the adoption of the district regulations.

Nonconforming Structure - A structure or building having a dimension or setback than otherwise required by the regulations applicable to the district in which it is situated, but which was constructed prior to the adoption of the district regulations.

Nonconforming Use - A use of land lawfully used and occupied prior to the effective date of an ordinance or regulation that does not conform to the use regulations of the district in which it is situated.

Sign - Any device, name, number, identification, description, announcement, declaration, demonstration, flag, banner, pennant, illustration, light, or insignia, and the supporting structure of any of the same, placed upon or affixed directly or indirectly to or upon any building or outdoor structure, or erected or maintained upon a piece of land which directs attention to any object, product, service, place, activity, person, institution, organization, or business, except that holiday lights and decorations shall not be considered signs. This definition doesn't include, fire lane government required, parking, traffic, safety signs, or similar signs.

Single-Family Dwelling - A detached building designed exclusively for occupancy by one (1) family, including manufactured housing or manufactured homes.

Stable, Private - An accessory building used for quartering horses.

SECTION 17. CHANGES AND AMENDMENTS TO ALL ZONING ORDINANCES AND DISTRICTS AND ADMINISTRATIVE PROCEDURES

17.1. Declaration of Policy

The Town declares the enactment of these regulations governing the use and development of land, buildings, and structures to be a measure necessary for the orderly development of the community. Therefore, no change shall be made in these regulations or within the boundaries of the zoning districts except:

- 17.1.1. To correct any error in the regulations or map.
- 17.1.2. To recognize changed or changing conditions or circumstances in a particular locality.
- 17.1.3. To recognize changes in technology, style of living, or manner of doing business.

17.2. Authority to Amend Ordinance

The Town Council may from time to time, after public hearings required by law, amend, supplement, or change the regulations herein provided or the classification or boundaries of the zoning districts. Any amendment, supplement, or change to the text of this ordinance and/or the zoning map and any change

in the classification or boundaries of the zoning districts may be initiated by the Town Council or may be requested by the owner of the affected real property or the authorized representative of an owner of affected real property.

17.3. Changes in Zoning District Boundaries or Classifications

- 17.3.1. Upon filing an application for an amendment to the classification or boundaries of a zoning district with the Town secretary, the Town Council shall hold a public hearing on said application.
- 17.3.2. For zoning changes that seek to modify zoning district classifications or boundaries, written notice of the date, time, and location of the public hearing shall be:
 - 17.3.2.1 sent to the owner of the property or his agent and to all owners of real property lying within two hundred (200) feet of the property on which the change in classification is proposed, such notice, mailed first-class postage prepaid, to be given at least thirty (30) days before the date of such hearing; and
 - 17.3.2.2. published in the official newspaper of the Town or another newspaper of general circulation at least sixteen (16) days from the date of such publication; and
 - 17.3.2.3. posted on the Town's website continuously for at least thirty (30) days prior to the public hearing; and
 - 17.3.2.4. posted on the property by the applicant with a sign, plainly visible from the nearest public roadway, which shall state "Zoning Change Requested, for information call Town Hall" and the telephone number shall be listed. The sign shall be at least eighteen (18) by twenty-four (24) inches in size and shall be continuously posted for at least fifteen (15) days before the public hearing. However, failure of owners to receive notice of hearing, or the failure of signage to be posted, shall in no way affect the validity of the action taken.
- 17.3.3. For zoning changes that seek to amend regulations contained within this ordinance, written notice of the date, time, and location of the public hearing shall be published and posted in the manner and within the times set forth in subsections 17.3.2.2 (published in the Town's official newspaper) and 17.3.2.3 (posted on the Town's website).

Section 18. DRIVEWAYS AND ACCESS

18.1. Purpose

The purpose of this section is to regulate the location, design, and construction of driveways within the Town of Poetry, ensuring safe and efficient access to properties while preserving the character of different zoning districts.

18.2. Applicability

This section applies to all properties within the jurisdiction of the Town of Poetry, categorized under the following zoning districts:

18.2.1. Agrarian (AR):

18.2.1.1. One driveway or private road per dwelling unit.

18.2.1.2. Additional driveways for agrarian use are permitted, provided they are no closer than 500 linear feet of road frontage to any existing agrarian (non-residential) driveways. (The surface of the driveway must be water permeable, i.e. No asphalt or concrete.)

18.2.1.3. Driveways for agrarian use are defined as those connections to roads which allow for accessing the non-residential portion of a property where activities are conducted, relating to or in support of farming, ranching, forestry and/or other agricultural endeavors.

18.2.2. Single Family Estate Zone (SF-E):

18.2.2.1 One driveway or private road per dwelling unit.

18.2.2.2 One driveway for agrarian use.

18.2.3. Single Family Zone (SF):

18.2.3.1 One driveway or private road per dwelling unit of street frontage.

18.2.4. Business Zone (B):

18.2.4.1 Business driveways shall be at least thirty (30) foot wide by thirty (30) foot radius on the approach. Businesses shall have a no more than one driveway.

18.2.5. Residential Driveways

18.2.5.1. Maximum Width:

18.2.5.1.1. Residential driveways shall not exceed a maximum of twenty (20) feet in width.

18.2.6. Shared Access:

18.2.6.1 Driveways shared between two or more adjoining lots or parcels must conform to the same standards as driveways that are not shared.

18.2.7. Circular Driveways:

18.2.7.1. Circular driveways, defined as driveways serving one dwelling unit and entering and exiting the same roadway, are allowed and considered as one driveway.

18.2.7.2. Circular driveways must conform to all other specifications in this ordinance.

18.2.8 Driveway Apron

18.2.8.1 Maximum Width:

18.2.8.1.1. The apron, the flared portion of the driveway interfacing with the roadway, may be up to fifty feet wide as measured at the point of interface.

18.2.8.1.2. The flare must decrease so that the maximum allowable width of the driveway is achieved at a distance of no greater than sixty (60) feet from the interface of the driveway and road.

SECTION 19. SPECIFIC USE PERMITS

19.1. Purpose

Specific Use Permits (SUP's) are zoning classifications that may include regulations as a part of the zoning ordinance granting the SUP. The uses that normally fall into the specific use category are uses that have unique characteristics that may, depending on the location of the property, require different conditions and regulations not otherwise listed under the basic zoning districts, or uses that are not considered by this ordinance as an allowed use by right. The Town's consideration of SUP applications is discretionary, not ministerial, and may be granted or denied by the Town Council based on the best interests of the public health, safety, morals, and general welfare.

19.2. Process

An application for an SUP may only be filed by the owner of the affected property or his/her duly authorized agent. The Town may charge a fee to the applicant in an amount intended to compensate the Town for the costs of publication and administrative expenses. The Town Council shall conduct a public hearing on the application after notice of the date, time, and location is delivered, published, and posted in accordance with the notice requirements for zoning classification or district boundary changes.

19.3. Provision

If granted, the Town Council may impose reasonable conditions on the use allowed by the SUP, including but not limited to hours of operation, parking requirements, on-site signage, and limitations on the emission of noise, dust, and fumes. The specific conditions set forth in the ordinance granted by the SUP will supersede the provisions of this ordinance only when in direct conflict; otherwise, all zoning regulations under this ordinance will apply. The zoning map shall identify the properties on which a SUP has been granted.

SECTION 20. PENALTY FOR VIOLATIONS

Any person, association, or corporation violating any of the provisions of this ordinance shall upon conviction be fined a sum not to exceed two thousand dollars (\$2000.00) per day, and each day that the provisions of this ordinance are violated shall constitute a separate and distinct offense. The foregoing sanction is not exclusive and the Town may pursue any, and all other remedies associated with violations of its zoning regulations as may be allowed by law. Failure to comply with the provisions of this ordinance may result in fines, issuance of stop-work orders, or other enforcement actions as specified in Section.

SECTION 21. VALIDITY, SEVERANCE AND CONFLICT

If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall be severed from and shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so determined to be invalid or unconstitutional. To the extent any provision of this ordinance conflicts with other ordinances of the Town of Poetry, the terms of this ordinance shall control.

SECTION 22. EFFECTIVE DATE

This ordinance shall be effective upon its adoption by the Town Council and the publication of its caption as the law may so require.

APPENDIX 1:

DISTRICT REGULATIONS

	AG	SF-E	SF	B-1
MAXIMUM HEIGHT (feet)	40	40	40	20
SIDE YARD WIDTH (feet)	5	5	5	5
MINIMUM REAR YARD (feet)	5	5	5	5
MINIMUM FRONT YARD (feet) {from centerline of the road}	75	75	75	55
MINIMUM LOT AREA (square feet)	217,800	108,900	43,560	108,900
MINIMUM LOT WIDTH (feet)	200	200	150	200
MINIMUM LOT DEPTH (feet)	311	311	200	311
MAXIMUM LOT COVERAGE	15%	10%	10%	10%
MINIMUM GREEN SPACE	50%	50%	50%	50%

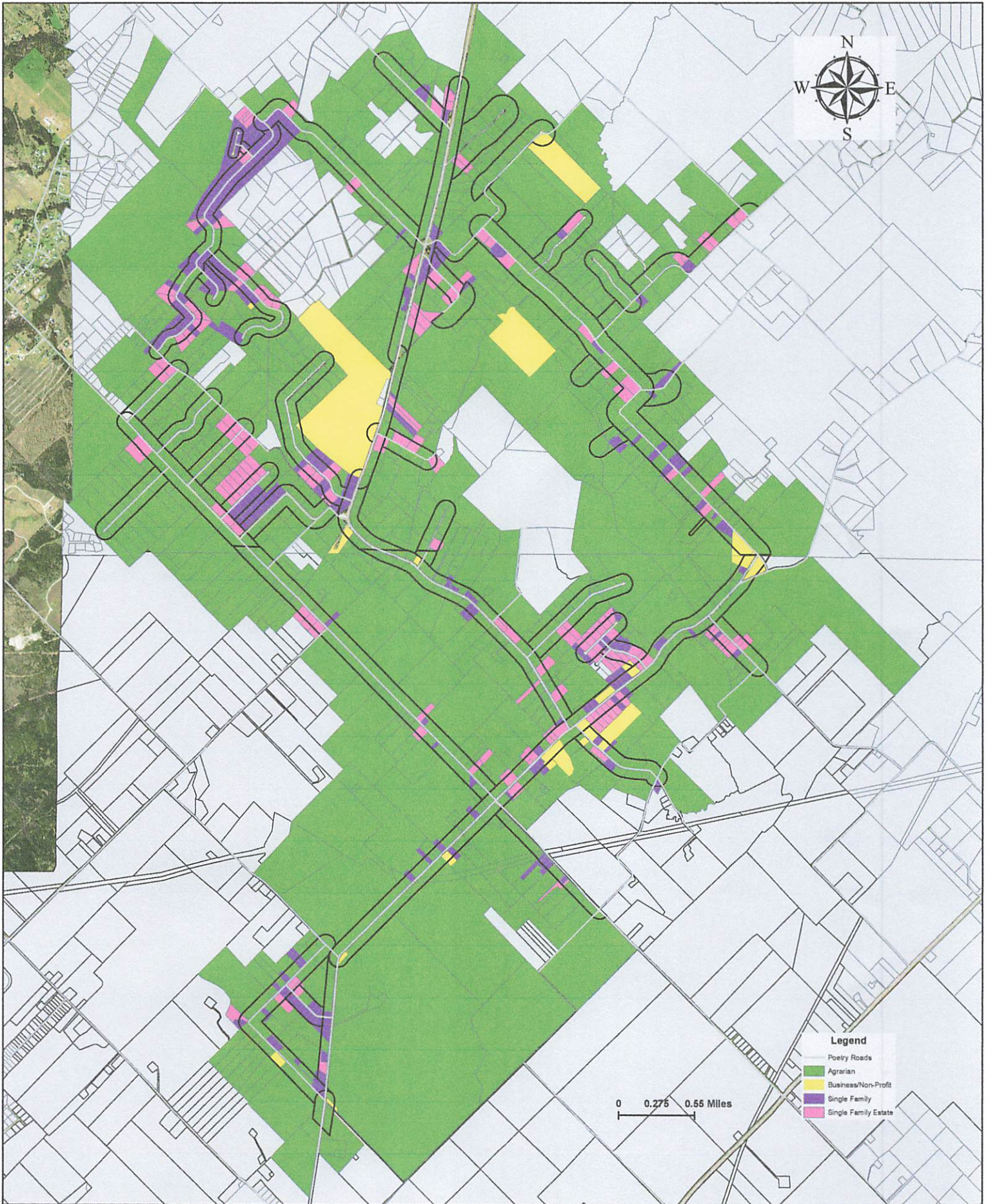
NOTES TO APPENDIX 1

- a) The minimum residential lot area for the various districts shall be in accordance with the regulations for each district, except that a lot having less area than required which was an official "lot of record" at the time of the adoption of this ordinance (a nonconforming lot) may be used for a one-family dwelling.
- b) No lot existing at the time of passage of this ordinance shall be reduced in area below the minimum requirements outlined in the respective district.
- c) The front yard setback shall be measured from the center line of the road at an existing street to the front face of the building, covered porch, covered terrace, or attached accessory buildings. Eaves and roof extensions or a porch without posts or columns may project into the required front yard for a distance not to exceed eight (8) feet and subsurface structures, platforms, or slabs may not project into the front yard to a height greater than thirty (30) inches above the average grade of the yard. On corner lots, the front yard setback shall be observed along the frontage of both intersecting streets (unless shown specifically otherwise on a final plat).
- d) The rear yard setback or depth is defined as the distance from the boundary of a lot that is most distant from or is most nearly parallel to the front lot line, and the front, rear, or side of any structure. The side yard setback or depth is the distance between the front, rear, or side of any structure and any lot line that is not the front or rear lot line. Eaves

and roof extensions or a porch without posts or columns may project into the required rear or side yard for a distance not to exceed eight (8) feet and subsurface structures, platforms, or slabs may not project into the yard to a height greater than thirty (30) inches above the average grade of the yard

- e) The height of a building is measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to (1) the highest point of the roof's surface, if a flat surface, (2) to the deck line of mansard roofs, or (3) to the mean height level between eaves and edge for hip and gable roofs and, in any event, excluding chimneys, cooling towers, elevator bulkheads, tanks, water towers, radio towers, ornamental cupolas, domes or spires, and parapet walls not exceeding ten (10) feet. If the street grade is not officially established, the average front yard grade shall be used for a base level.
 - f) Where the frontage on one side of a street between two (2) intersecting streets is divided by two (2) or more zoning districts, the front yard shall comply with the requirements of the most restrictive district for the entire frontage.
 - g) Single-family dwellings require building lots of two and a half (2.5) acres or more, except in the SF-Single Family Residential District.
 - h) All measurements for minimum front yard and other related measures are from the center line of the road and include both the road and the right of way.
-

Town of Poetry
Original Zoning Map
03/21/24
Exhibit B



Two Thousand and no/100 Dollars (\$2,000.00) for each offense. Each and every day such violation continues shall constitute a separate offense.

SECTION 5: This ordinance shall take effect immediately from and after its passage and the publication of its caption, as the law in such cases provides.

DULY PASSED by the Town Council of the Town of Poetry, Texas this 21ST day of March, 2024.

APPROVED:

Sara Lentewick
Mayor

ATTEST:

Theresa Schlander
Town Secretary, Deputy

APPROVED AS TO FORM:

[Signature]
Town
Attorney



TOWN OF POETRY, TEXAS

ORDINANCE NO. 2024-03-01

AN ORDINANCE OF THE TOWN OF POETRY, TEXAS, ADOPTING A COMPREHENSIVE ZONING ORDINANCE AND MAP; PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE

DULY PASSED by the Town Council of the Town of Poetry, Texas this 21ST day of March, 2024.

APPROVED:

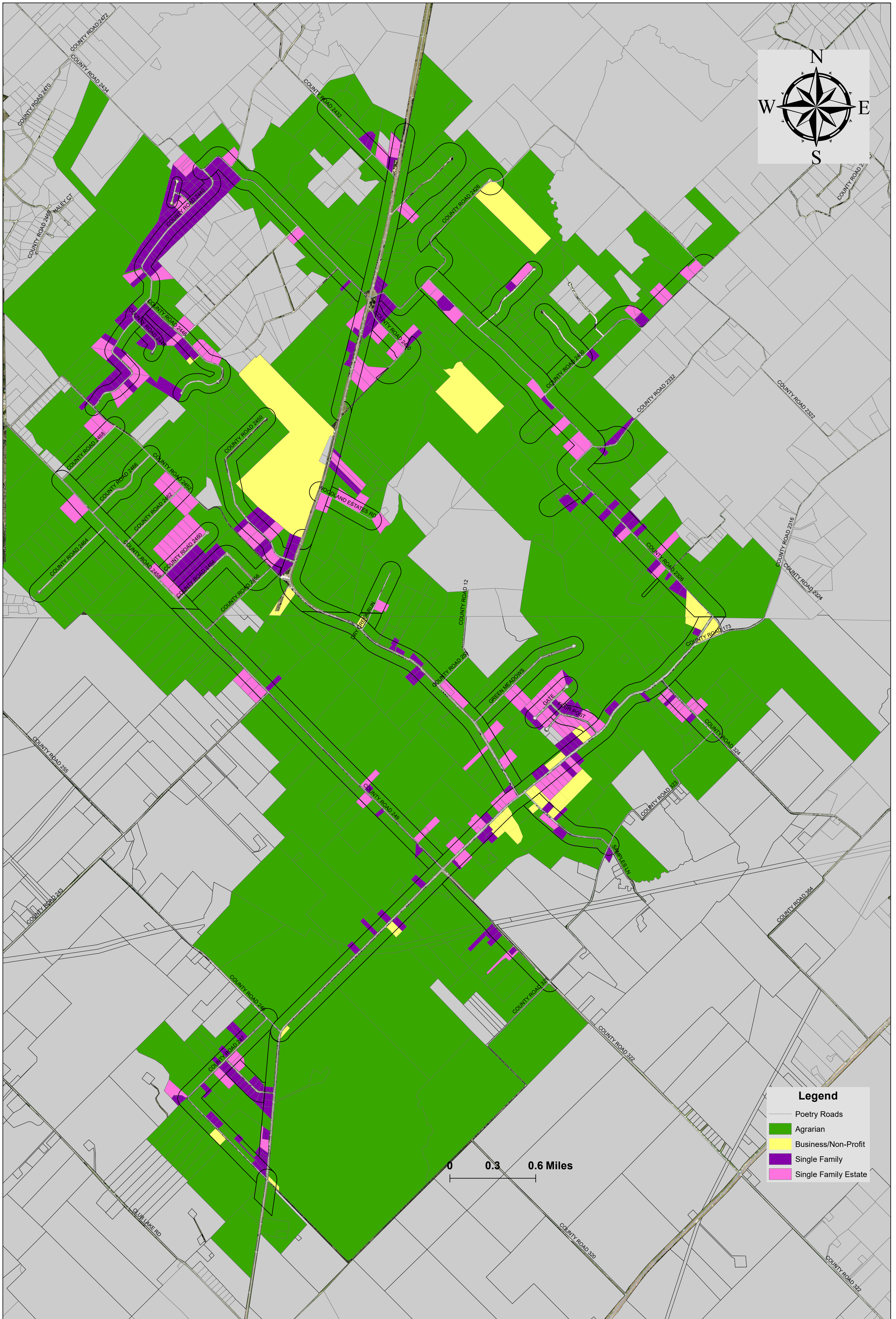
Sara Senkevech
Mayor

ATTEST:

Theresa Schlander
Town Secretary, Deputy



Town of Poetry
Original Zoning Map
03/21/24



Brooke Paup, *Chairwoman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



RECEIVED OCT 16 2025

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 6, 2025

Ms. Mindy Koehne
Coats Rose PC
16000 North Dallas Pkwy, Suite 350
Dallas, Texas 75248

Re: Publication of Notice of District Petition regarding creation of Bishop Field
Municipal Utility District No. 1 of Hunt County
TCEQ Internal Control No. D-08142025-027

Dear Ms. Koehne:

Enclosed is a copy of the notice for the above petition. Please carefully review the notice for accuracy prior to publication and distribution. Contact Kisha Jerrells in the District Administration Office at 512/239-4605 if the notice is found to be in error.

This full notice, including Exhibit A, must be published in accordance with 30 Texas Administrative Code Section 293.12, at your client's expense, in a newspaper (or newspapers) regularly published or circulated in the county or counties in which the proposed district is to be located. Publication shall be once a week for two consecutive weeks. The 30-day comment period will begin on the day after the date of the **second** publication.

In addition, pursuant to 30 Texas Administrative Code 293.12, you are required to post the enclosed notice, including Exhibit A, on the bulletin board used for posting legal notices in each county in which all or part of the proposed district is to be located. This notice should be posted so that it is available to the public no later than the date of your second newspaper publication.

After notice has been published and posted in accordance with 293.12, please provide proof of these actions to the Chief Clerks Office (Mail Code 105). The proof for newspaper publication shall be the original TCEQ affidavit of publication completed and notarized by the newspaper and an original tear sheet from the newspaper. The proof of posting can be in the form of an affidavit signed by a representative for the proposed district, stating all facts of the posting action.

The Chief Clerk's Office should receive all affidavits no later than 14 days after the second publication of the notice in the newspaper.

If you have any questions regarding these publication requirements, please contact Kim Moore in this office at 512/239-3314.

Sincerely,

Laurie Gharis

Laurie Gharis
Chief Clerk

LG/ ka
Enclosures

cc: To all on attached mailing list.

MAILING LIST

Bishop Field MUD No. 1 of Hunt County
TCEQ Internal Control No. D-08142025-027

Ms. Mindy Koehne
Coats Rose PC
16000 North Dallas Pkwy, Suite 350
Dallas, Texas 75248

Ms. Stephanie White, P.E.
Kimley-Horn
400 North Oklahoma Drive, Suite 105
Celina, Texas 75009

Ms. Alyssa Taylor
TCEQ Region 4
2309 Gravel Drive
Fort Worth, Texas 76118

The Honorable Brent Money
State Representative, District No. 2
Room E2.414
P.O. Box 12910
Austin, Texas 78711

The Honorable Angela Paxton
State Senator, District No. 8
P.O. Box 12068
Capital Station
Austin, Texas 78711

City of Poetry
Attn: Anne Hamilton, City Secretary
5671 County Road 323
Terrell, Texas 75160

Hunt County Clerk
Attn: Becky Landrum, County Clerk
2507 Lee Street, 2nd floor
Greenville, Texas 75401

Texas Commission on Environmental
Quality
P.O. Box 13087
Austin, Texas 78711-3087

Todd Galiga, Senior Attorney,
Environmental Law Division, MC-173

Kisha Jerrells, Technical Manager,
Districts Creation Review Team, MC-
152

Stephanie DeSouza, Districts Creation
Review Team, MC-152

Justin P. Taack, Manager, Districts
Section, MC-152

Michelle Voytko, Drinking Water Special
Functions Section, Water Supply
Division, MC-153

Garrett Arthur, Office of the Public
Interest Counsel, MC-103

TCEQ - Office of the Chief Clerk
MC-105 Attention: Notice Team
PO Box 13087
Austin TX 78711-3087

Applicant Name: Bishop Field MUD No. 1 of Hunt County
TCEQ Tracking No. D-08142025-027 CID Item No. 144166
Application Type: PETITION FOR CREATION OF A DISTRICT

AFFIDAVIT OF PUBLICATION

STATE OF TEXAS §
COUNTY OF: _____ §

Before me, the undersigned authority, on this day personally appeared _____,
(name of newspaper representative), who being by me duly

sworn, deposes and says that (s)he is the _____
(title of newspaper representative)

of the _____;
(name of newspaper) that said newspaper is

regularly published or circulated in _____ County/Countries,
(name of county or counties)

Texas; that the attached notice was published in said newspaper on the following dates:

(date or dates of publication)

Newspaper Representative's Signature

Subscribed and sworn to before me this the _____ day of _____,
20 _____, to certify which witness my hand and seal of office.

(Seal)

Notary Public in and for the State of Texas

Print or type Name of Notary Public

My Commission Expires _____

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



NOTICE OF DISTRICT PETITION TCEQ INTERNAL CONTROL NO. D-08142025-027

PETITION. Bishop Airfield Ranch, LLC, a Texas limited liability company, and Bishop Airfield II, LLC, A Texas limited liability company (Petitioners filed a petition for creation of Bishop Field Municipal Utility District No. 1 of Hunt County ((District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ.

The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are two lienholders, William Bishop and First United Bank and Trust Company, on the property to be included in the proposed District and the lienholders consented to the creation of the proposed District; (3) the proposed District will contain approximately 439.412 acres located within Poetry, Hunt County, Texas; and (4) all or a portion of the land within the proposed District is within the extraterritorial jurisdiction of the Town of Poetry, Texas, and is not within the corporate limits or extraterritorial jurisdiction of any other city, town or village.

The territory to be included in the proposed District is depicted in the vicinity map designated as Exhibit "A", which is attached to this document.

The petition further states that the proposed District will: (1) purchase, construct, acquire, improve, and extend any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic and commercial purposes; (2) collect, transport, process, dispose of and control domestic and commercial wastes; (3) gather, conduct, divert, abate, amend and control local storm water or other local harmful excesses of water; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; and (5) purchase, construct, acquire, improve and extend such additional facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$56,405,000 for water, sewer and drainage facilities and \$ 9,980,000 for roads.

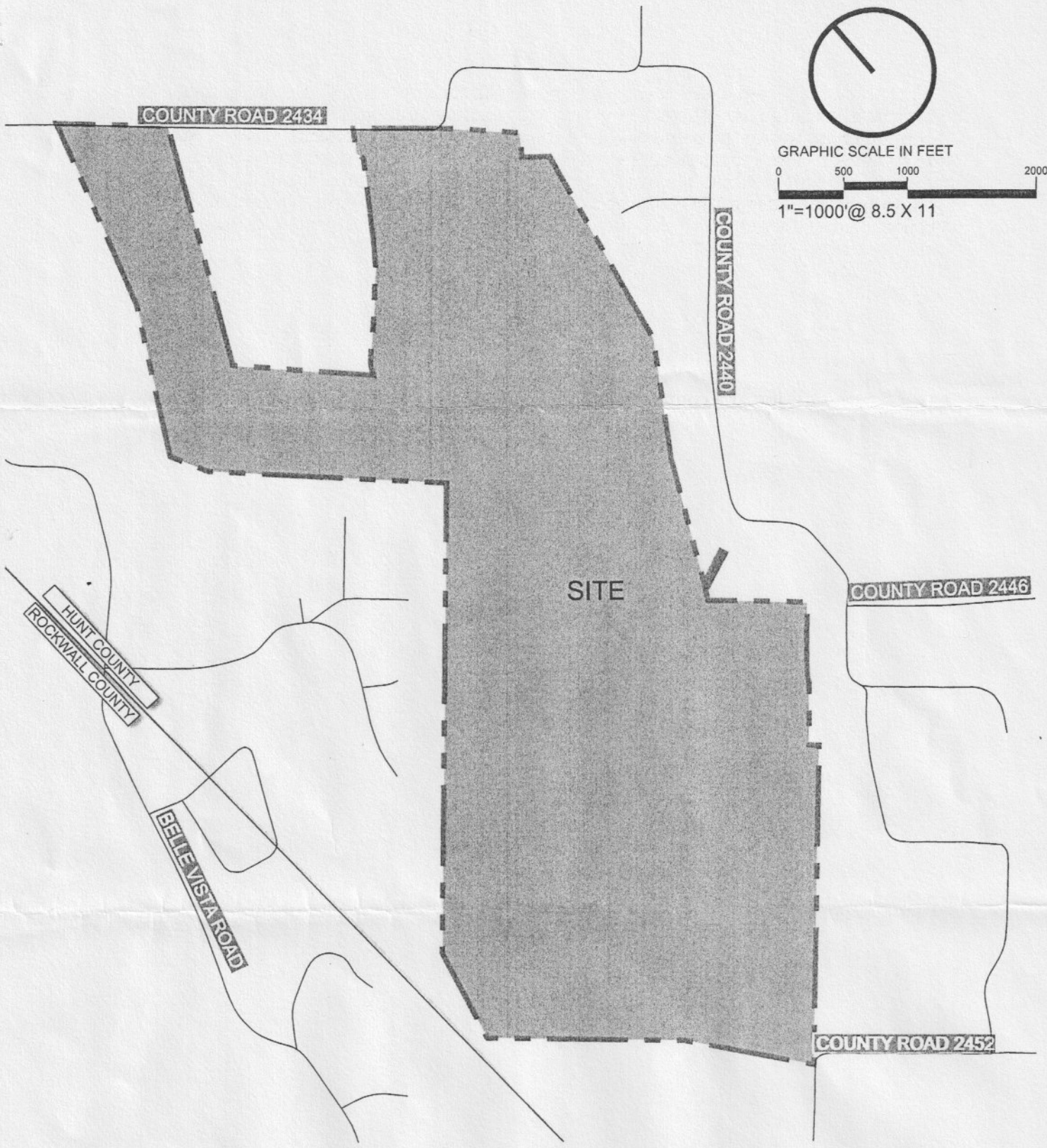
CONTESTED CASE HEARING. The TCEQ may grant a contested case hearing on this petition if a written hearing request is filed within 30 days after the newspaper publication of this notice.

To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioners and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

INFORMATION. Written hearing requests should be submitted to the Office of the Chief Clerk, MC-105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC-103, at the same address. General information regarding TCEQ can be found at our web site <http://www.tceq.texas.gov/>.

Issued: October 6, 2025



LOCATION MAP
SCALE: 1" = 1000'

EXHIBIT 1

Bishop Field MUD No. 1 of Hunt County

32.875560, -96.284400
Hunt County, Texas 75189
May 2025

Kimley»Horn

400 North Oklahoma Drive, Suite 105
Covina, TX 75009
469-591-2200
State of Texas Registration No. F-928

NOTES:
1. THIS MAP IS A PRELIMINARY MAP AND SHOULD NOT BE USED FOR ANY PURPOSES OTHER THAN AS A LOCATION MAP.
2. THE CITY OF BISHOP HAS REVIEWED THIS MAP AND APPROVES THE LOCATION MAP FOR THE CITY OF BISHOP.

BILLING STATEMENT

Questions? Please
contact us at
billing@tmlirp.org

**Texas Municipal League
Intergovernmental Risk Pool**
www.tmlirp.org • 512-491-2300
Billing Payment Address:
P.O. Box 388
San Antonio, Texas 78292-0388

Town of Poetry
Attn: Theresa Scholander
5671 CR323
Poetry, Texas 75160

Statement Date 10/01/2025
Due Date **DUE UPON RECEIPT**
Contract Number [REDACTED]

New Charges Detail

10/01/2025	Workers' Comp	\$1,075.00
10/01/2025	Cyber Liability	\$1,850.00
10/01/2025	General Liability	\$564.00
10/01/2025	Errors & Omissions Liability	\$783.00
10/01/2025	Law Enforcement Liability	\$788.00
10/01/2025	Automobile Liability	\$559.00
10/01/2025	Real & Personal Property	\$1,212.00
10/01/2025	Mobile Equipment	\$285.00
Subtotal - Contribution Installment		\$7,116.00
10/01/2025	Mobile Equipment	(\$285.00)
10/01/2024	Mobile Equipment	(\$26.00)
Subtotal - Contribution Changes		(\$311.00)
10/01/2025	Pre-Payment Discount/Discount Adj	(\$136.10)
Subtotal - Other Charges / (Credits)		(\$136.10)
Grand Total - New Charges / (Credits)		\$6,668.90

Account Recap

Balance from Previous Statement:	\$349.04
Total Payments Received:	(\$349.04)
Total New Charges / (Credits):	\$6,668.90
Balance:	\$6,668.90

RETURN THIS PORTION WITH YOUR PAYMENT



Submit address/contact changes to:
billing@tmlirp.org

Town of Poetry
Theresa Scholander
5671 CR323
Poetry, Texas 75160

Please send your payment to:

TML Intergovernmental Risk Pool
PO Box 388
San Antonio, TX 78292-0388

ORDINANCE NO. 2023-12-01

AN ORDINANCE OF THE TOWN OF POETRY, TEXAS, AMENDING ORDINANCE NO. 2021-10-01 RELATING TO THE COLLECTION OF SOLID WASTE FROM CUSTOMERS WITHIN THE TOWN; ADOPTING EXCLUSIVITY SUCH THAT ONLY ONE VENDOR MAY SERVE POLYCARTS AND SMALL DUMPSTER CUSTOMERS; REQUIRING A FRANCHISE AGREEMENT FOR THE USE OF THE TOWN STREETS TO CONDUCT SUCH BUSINESS; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS OF THIS ORDINANCE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on November 16, 2021, the Town Council of the Town of Poetry, Texas, adopted Ordinance No. 2021-10-01, relating to the collection of solid waste and adopting regulations pertaining thereto; and

WHEREAS, the Town Council finds and determines that since the adoption of Ordinance No. 2021-10-01, there are numerous solid waste vendors conducting business in the Town, some of whom do not have the appropriate permit or franchise agreement, have failed to renew permits or agreements, and, based on the number and nature of complaints received by the Town, are performing collection services poorly and inadequately; and

WHEREAS, it is in the public interest to ensure that solid waste collection service is provided efficiently and effectively to the citizens of the Town; and

WHEREAS, the Town Council desires to retain one exclusive vendor to collect solid waste from residential, polycarts and small dumpster customers within the Town, and that the Council's selection of the most qualified vendor will minimize the number of vendors using Town streets, will enable a more effective and efficient collection of residential municipal solid waste, and will enable the Town to more effectively monitor and regulate the collection of solid waste; and

WHEREAS, the Town Council finds and determines that a public need exists to amend regulations relating to the collection of solid waste in the Town's limits in accordance with the terms of this Ordinance in order to protect the public streets and provide for the general health, safety and welfare of the citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF POETRY, TEXAS:

SECTION 1. That the Town Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the Town Council hereby incorporates

such recitals as part of this Ordinance.

SECTION 2. That Ordinance 2021-10-01, adopted by the Town Council of the Town of Poetry, Texas, on or about November 16, 2021, be and is hereby amended by amending Subsection A of Section 2 (“Permit And Franchise Agreement Required”) to consolidate both Subsection A’s into one, and to amend the existing language to enable exclusivity in solid waste collections, such that Subsection A of Section 2 of Ordinance No. 2023-10-01 shall read in its entirety as follows:

A. Exclusivity; Permit and Franchise Agreement.

- (1) Unless excepted herein, it shall be unlawful for any person, firm or corporation to collect municipal solid waste or to engage in the business of municipal solid waste collection without first having a valid permit issued by Town and a franchise agreement with the Town.
- (2) Small Collections. The Town Council shall select one Collector based on demonstrated competence to exclusively provide Municipal Solid Waste collections for Small Collections according to **Addendum A**. As used herein, “Small Collections” means 1) bulky trash collected from residences, and 2) solid waste collected from receptacles that are designed to contain 10 cubic yards or less, including roll-off containers, dumpsters, polycarts, and other receptacles, regardless of whether the source is residential or commercial. Upon the Council’s selection, all existing permits and franchise agreements with all persons and entities providing solid waste collection services to residential customers within the Town shall be and are hereby revoked. It shall be unlawful for any person, firm or corporation to collect municipal solid waste or to engage in the business of Small Collection of municipal solid waste collection other than the exclusive vendor selected by the Town.
- (3) Large Collections (roll-off containers of greater than 10 cubic yards). No Collector, other than the those who have signed up and meet requirements of **Addendum B**, shall collect any municipal solid waste within the corporate limits of the Town without first applying for and obtaining a permit to do so from the Mayor or his/her designee. Such permit shall be on such forms as the Town may determine. An annual permit fee in the amount of \$100 is due and payable at the time of application for a permit. The Mayor or his/her designee may provide notice of noncompliance with these regulations and allow ten (10) days for compliance. However, failure of the Town to provide this notice does not preclude the Town from initiating citations and pursuing action pursuant to Chapter 54 of the Texas Local Government Code, as amended, against any collector in violation of the

Town's solid waste regulations.

- (4) In addition to the foregoing permit requirement, any person, firm corporation collecting solid waste within the Town shall first enter into a Franchise Agreement with the Town. It shall be unlawful for any person, firm or corporation to collect municipal solid waste or to engage in the business of municipal solid waste collection without first having entered into a Franchise Agreement.

SECTION 3 That Subsection A of Section 2 of Ordinance No. 2023-10-01 be and is hereby amended in accordance with the foregoing, without amendment repeal or change to any other part or provision of Ordinance No. 2021-10-01. All ordinances of the Town of Poetry, Texas, in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the Town of Poetry not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of other ordinances of the Town.

SECTION 6. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall, upon conviction, be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

SECTION 7. That this ordinance shall take effect immediately from and after its passage

and the publication of the caption, as the law in such cases provides.

DULY PASSED AND APPROVED by the Town Council of the Town of Poetry, Texas,

on this the 21st day of December, 2023.

APPROVED:

Sara Senkevich
MAYOR

ATTEST:

Sheresa Schauder
TOWN SECRETARY

APPROVED AS TO FORM:

[Signature]

TOWN ATTORNEY



ADDENDUM A

EXCLUSIVE FOR RESIDENTIAL SOLID WASTE COLLECTIONS

FRANCHISE AGREEMENT FOR THE COLLECTION, HAULING AND DISPOSAL OF MUNICIPAL SOLID WASTE IN THE TOWN OF POETRY, TEXAS

THIS FRANCHISE AGREEMENT (this "Agreement") is made and entered into as of the date set forth hereinbelow and is by and between Doliver Enterprises, LLC dba Blackjack Disposal, ("CONTRACTOR"), and the Town of Poetry, Texas (the "Town").

WHEREAS, the Town is empowered under state and local law to provide solid waste collection and disposal services to its residents and commercial businesses and has the authority to enter into solid waste service contracts to acquire, sell, lease or allow for the operation of all or any part of a solid waste management system, including the collection, transportation and disposal of solid waste; and

WHEREAS, the Town, subject to the terms and conditions set forth herein and the ordinances and regulations of the Town, desires to grant to the Contractor the exclusive franchise, license and privilege to collect, haul and dispose of commercial and residential Solid Waste (as such term is defined herein) within the Town's corporate limits.

NOW, THEREFORE, in consideration of the premises and the mutual promises, covenants and agreements set forth herein, the Contractor and the Town hereby agree as follows:

SECTION 1. DEFINITIONS

The following terms, as used herein, will be defined as follows:

Bulky Waste: Bulky Waste shall mean solid waste composed of materials not easily contained in a cart such as, but not limited to white goods, furniture, yard trimmings, large electronics, and other oversized solid waste. Any solid waste not placed within a Cart will be removed by the Contractor as Bulky Waste.

Contractor: Doliver Enterprises, LLC dba Blackjack Disposal a Texas [entity] authorized and registered to do business in the State of Texas, and its successors and assigns.

Construction and Demolition Waste: Solid Waste resulting from construction or demolition activities or that is directly or indirectly the by-product of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber and wood products. Construction and Demolition Waste does not include Hazardous Waste or Municipal Solid Waste.

Container or Poly Cart Container: Poly Cart Container (or Cart) shall mean a 90 or 95-gallon, durable plastic, heavy duty wheeled container. The Contractor shall own the Carts and, following the termination of this Contract by any means, shall be entitled to reclaim and repossess the Carts.

Container or Poly Cart Container: Poly Cart Container (or Cart) shall mean a 90 or 95-gallon, durable plastic,

Gross Receipts. The total amounts the Contractor received from all sources within the Town during the quarter, without subtracting any costs or expenses

Hazardous Waste: Solid Waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency (EPA) under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and as subsequently amended, or so classified by any federal or State of Texas statute, rule, order or regulation.

Holidays: The following days:

- (1) New Year's Day (January 1st)
- (2) Memorial Day (discretion of vendor)
- (3) Independence Day (July 4th)
- (4) Labor Day (discretion of vendor)
- (5) Thanksgiving Day
- (6) Christmas Day (December 25th).

Landfill: Any facility or area of land receiving Municipal Solid Waste, Residential Solid Waste, or Construction and Demolition Waste and operating under the regulation and authority of the Texas Commission on Environmental Quality ("TCEQ") within the State of Texas, or the appropriate governing agency for landfills located outside the State of Texas.

Solid Waste: As defined by the EPA under 40 C.F.R. § 261.2(a)(1), or by the State of Texas under the Solid Waste Disposal Act § 361.003(34) whether such waste is mixed with or constitutes recyclable materials.

Solid Waste Services: Solid Waste Services shall mean the collection and disposal of solid waste including bulky waste.

SECTION 2. FRANCHISE GRANT

A. The Contractor is hereby granted the sole and exclusive license, privilege and duty, to the extent allowed by law, within the territorial jurisdiction of the Town, to provide Solid Waste collection, hauling and disposal for all residential and commercial customers, and the nonexclusive license, privilege and duty for construction and demolition waste, and recyclable materials collection and processing in accordance with this Agreement and the Ordinances of the Town and to perform all of the work called for and described in this Agreement. Contractor agrees to furnish all personnel, labor, equipment, trucks, and other items necessary to provide Solid Waste Services to all points within the Town. In order to maintain the exclusive franchise in favor of the Contractor contained herein, the City may take any and all appropriate legal action against any company, customer or third party infringing upon the exclusive rights of the Contractor. In the event that the City fails to pursue appropriate legal action in order to remedy an infringement on the Contractor's exclusive-franchise rights, the Contractor may retain a subrogation right from the City against any and all violations of the exclusive-franchise grant described herein and shall be entitled to any and all actual and consequential damages against third-parties.

B. The Contractor has the sole obligation to exercise and enforce, at its sole expense, the residential collections exclusivity provided for herein as against third parties, and may present claims and bring suit for its damages and injunctive relief against third parties for a violation of Contractor's exclusivity herein.

C. The Contractor will provide Town services at no charge to the Town. Town services include solid waste services and recycling services to all current and future Town facilities, the collection of appliances or other bulky debris illegally dumped on Town property such as greenbelts, parks, medians, or rights of way, and solid waste services for any Town-sponsored special event. The Town of Poetry residents located in Kaufman or Hunt County will be provided a drop-off location for recyclables and household hazardous waste according to the prevailing rate schedule and subject to continued contract with Kaufman County.

- b. \$195.00 per month per dumpster for twice per week pick-up
- 3. Dumpsters (4 cubic yard)—Residential/Commercial/Industrial:
 - a. \$125.00 per month per dumpster for once per week pick-up
 - b. \$225.00 per month per dumpster for twice per week pick-up
- 4. Dumpsters (6 cubic yard)—Residential/Commercial/Industrial:
 - a. \$155.00 per month per dumpster for once per week pick-up
 - b. \$280.00 per month per dumpster for twice per week pick-up
- 5. Dumpsters (8 cubic yard)—Residential/Commercial/Industrial:
 - a. \$185.00 per month per dumpster for once per week pick-up
 - b. \$335.00 per month per dumpster for twice per week pick-up
- 6. One-time Pick-up:
 - a. \$37.50 for 2 and 4 cubic yard dumpster
 - b. \$50.00 for 6 cubic yard dumpster
 - c. \$75.00 for 8 cubic yard dumpster

E. Rate Changes. Unless otherwise agreed by the parties, the rates may be modified during the term of this contract or any renewal term only in accordance with the provisions of this subparagraph; provided, however, that the rates shall not be revised earlier than the fiscal year commencing October 1, 2024.

- 1. CPI-U Adjustment. On each anniversary date of this Agreement, the Service Provider shall have the right, in its sole discretion and upon giving prior notice to the City, to request to increase or decrease the rates set forth in Section 4.D. hereof (the "Initial Rates") in accordance with the CPI-U, and subject to Section E.5. As used herein, "CPI-U" shall mean the revised Consumer Price Index rate for all urban consumers (all items included) for the Dallas-Fort Worth metropolitan area, based on the latest available figures from the Department of Labor's Bureau of Labor Statistics (the "Bureau"). The CPI-U used will be the CPI-U published by the Bureau during the month ninety (90) days preceding the adjustment under this Section 4.E. The rate adjustment shall be the same percentage change in the CPI over the two previous calendar years. The most recently available January through December 12-month average of the CPI will be compared to the preceding 12-month period, and the rate adjustment shall be the same percentage change, subject to the 5% maximum adjustment cap in Section E.5.
- 2. Operating Cost Adjustment. In addition to the rate adjustments provided for in this Section 4.E., at any time during the term of this Agreement following the expiration of the first year of this Agreement, the Service Provider may petition the City for additional rate and price adjustments at reasonable times on the basis of material or unusual changes in its cost of operations not otherwise the basis of any other rate adjustments herein. At the time of any such petition, the Service Provider shall provide the City with documents and records in reasonable form and sufficient detail to reasonably establish the necessity of any requested rate adjustment.
- 3. Landfill Cost Adjustment. The parties acknowledge that the Municipal Solid Waste and Construction and Demolition Waste covered by this Agreement will be disposed of by the Service Provider at a Landfill(s) chosen by the Service Provider in its sole discretion (the "Initial Landfill(s)"). In the event that the Service Provider is unable to use the Initial Landfill(s) due to reasons out of its control, the Service Provider (i) shall have the right, in its sole discretion, to dispose of the Municipal Solid Waste and Construction and Demolition Waste covered by this Agreement at another Landfill of its choosing.
- 4. Governmental Fees. The parties acknowledge that the rates herein include all applicable fees, taxes or similar assessments incurred under federal, state and local laws, rules and ordinances (excluding Solid Waste Exclusive Franchise Agreement of Ordinance 2023-12-01

Dec 2023

D. SECTION 3. TERM

The term this Agreement shall be for a period of four (4) years, beginning on January 1, 2024 and terminating December 31st, 2027. This Agreement may be renewed for three (3) additional one (1) year terms unless either party gives written notice of election not to renew the Agreement to the other party, not less than sixty (60) days prior to the expiration of the original or any renewal term.

SECTION 4. FRANCHISE FEES; RATES FOR SERVICE

A. Franchise Fees. For the right and privilege of using the Town's public rights-of-way, the Contractor will pay the Town an administrative fee of \$6.50 per month per customer using polycarts, \$15.00 per month per dumpster. The rates shown below do not include this fee. The fee shall not be due until paid or collected by Contractor.

B. Due Dates. Franchise fees shall be paid to the Town on or before the tenth (10th) day after the beginning of each quarter for amounts received by the Contractor for the performance of Services during the previous quarter, according to the following dates.

1st quarter: January 10th

2nd quarter: April 10th

3rd quarter: July 10th

4th quarter: October 10th

If this Agreement is entered into or terminated in the middle of a quarter, the applicable quarter will be prorated to exclude the time during the quarter in which no Service was provided. The Town agrees that payments owing from the Contractor pursuant to this Agreement shall be based solely on the Services rendered by the Contractor.

C. Reports; accountability. Each payment to the Town shall be accompanied by a statement detailing Contractor's quantities of each service type and showing sufficient information to enable the Town to verify the accuracy of each quarterly payment. The Town may review Contractor's books and records that relate to customers within the Town's corporate limits, or may conduct an audit of books and records, on reasonable notice any time during the term of this Agreement and for a period of one (1) year thereafter. Any information obtained by Town as a result of a review or audit shall be kept and maintained by the Town as confidential, and may only be disclosed to employees, representatives, and agents of the Town that have a need to know, or in order to enforce the provisions hereof, except where required by law or court order to disclose such information. An audit shall be at Town expense unless the audit discloses an underpayment of more than five percent (5%) of the amount that was otherwise due, in which case the Contractor shall pay or reimburse the Town for all costs.

D. Rates. The rates charged by Contractor to customers within the Town shall be as follows

1. Residential/Polycart (per home or business):
 - a. \$27.50 per month for one Poly Cart Container.
 - b. \$12.00 per month for each additional Poly Cart Container.
 - c. \$ 65.00 per replacement cart beginning with **second** occurrence for lost carts
2. Dumpsters (2 cubic yard)—Residential/Commercial/Industrial:
 - a. \$95.00 per month per dumpster for once per week pick-up

sales taxes and taxes imposed on income) (the “Fees”). The parties acknowledge and understand that the Fees may vary from time to time, and, in the event any of such Fees are increased or additional Fees are imposed subsequent to the effective date of this Agreement, the parties agree that the rates herein shall be immediately increased by the amount of any such increase in Fees or additional Fees. City must be given 90 days’ notice before such increases take effect.

5. The Contractor may submit a written request for a rate adjustment under the foregoing Sections E.1. or E.2. or the Town may notify the Contractor of a rate adjustment, on or before each anniversary date of this Agreement, which shall be effective if and when authorized by the Town. If either party fails to submit a written request or notice of a rate adjustment on or before any anniversary date of any year, the then-existing rates shall apply throughout the following contract year. No rate adjustment shall exceed five percent (5%) in any year. Rate increases are not mandatory, but the Town shall act fairly and reasonably in its consideration of a requested rate increase.

SECTION 5. OPERATIONS

A. **Scope of operations.** It is expressly understood and agreed that the Contractor will collect, haul and dispose of Solid Waste during Business Days: (i) generated and accumulated by Contractor’s customers, and (ii) placed within Containers, if required by Contractor, by those customers receiving the services of the Contractor, all within the Town’s corporate limits, including any territories annexed by the Town during the term of this Agreement. This Agreement does not cover services provided in the Town’s extraterritorial jurisdiction, **unless some part of the driveway to the residence is in the town’s borders.** The frequency of collections shall be:

1. Residential polycart per home: One time per week.
2. Bulky Trash (residential): One time per month.
3. Dumpster Commercial/Industrial: As negotiated by Contractor and Customer.

B. **Special Collections.** A handicapped citizen of Poetry may call the contractor for a special arrangement as needed.

C. **Application.** **This Ordinance franchise shall apply to any property or easement that abuts any roadway including, but not limited to a private road, county road, state road, and/or town roads within the Town’s incorporated boundaries where solid waste might be collected.**

D. **Nature of operations.** The Town hereby grants to the Contractor, in accordance with this Agreement and the Town’s ordinances and regulations governing the collection, hauling and disposal of Solid Waste, the title to all Solid Waste collected, hauled and disposed of by the Contractor over, upon, along and across the present and future streets, alleys, bridges, and rights-of-ways. All title to and liability for materials excluded from this Agreement shall remain with the generator of such materials.

E. **Hours/Days of Operation.** Collection of Solid Waste shall begin no earlier than 7:00 o’clock a.m. and shall generally not extend beyond 7:00 o’clock p.m. These hours may be extended or altered with the approval of the Town. No regular weekly residential collection shall occur on Saturday, unless needed to accommodate collection schedule shifts due to holidays. No collection shall be made on Sunday unless extraordinary weather patterns or extraordinary circumstances make it impossible to pick up the usual days.

E. Monthly Reporting. Complete and accurate monthly reports must be submitted to the Town on or before the tenth (10th) day of the beginning of each quarter. Quarterly reports must contain the following information:

1. Customer List for services provided. – identify each by address and level of service, name, and contact information.
2. Billing and Revenue Documentation – documentation justifying the billings and revenue derived by the successful proposer for services within the Town.

SECTION 6. COMPLAINTS; MISSED COLLECTIONS

A. Local Office: The Contractor shall maintain an office or other facilities through which they can be contacted. The office shall be equipped with sufficient telephones having local phone numbers and shall be staffed by at least one responsible and competent person (a customer service representative) available to answer the phone from 8:00 a.m. to 5:00 p.m. on regular collection days. When residential collection is postponed one day for the holiday schedule the Contractor's customer service personnel must be available to answer phones on all days during which collection service is provided. An informative recording answering frequently asked questions and voicemail shall be available at all other hours.

B. Complaint Resolution. The Contractor will be primarily responsible for complaints, which shall be directed to the Contractor, and the Contractor shall give each complaint received prompt and courteous attention. The Contractor shall maintain a log of complaints and shall provide the Town, monthly, with copies of all complaints indicating the date and hour of the complaint, the nature of the complaint, and the manner and timing of its resolution. If a complaint cannot be resolved, it is the Contractor's responsibility to provide adequate documentation to demonstrate that the complaint was handled in a satisfactory manner.

C. Missed Collections. The Contractor shall notify the Town by 4:00 PM, Central Time, when a route may not be completed before 7:00 PM, Central Time. The Contractor shall notify the Town immediately upon discovering a street, portion of a route, or a complete route was not collected as scheduled. When notification of a missed collection is received by the Contractor before 4:00 PM, Central Time, and such allegation cannot be disproved by using Global Positioning System (GPS) equipment to document the fact that the Contractor attempted to provide services to such customer, the Contractor shall dispatch a truck and provide the collection before 7:00 PM, Central Time on the same day. When notification of a missed collection is received by the Contractor after 4:00 PM, Central Time and such allegation cannot be disproved using GPS, the Contractor shall provide collection within the next 24 hours and inform all residents impacted by such a missed collection of the time the corrective collection will be provided. When notification of a missed collection is received after 4:00 PM, Central Time on the day preceding a holiday and such allegations cannot be disproved, the Contractor shall provide collection by the next business day after the holiday.

D. Materiality. Compliance with the complaint resolution, customer grievance, and reporting requirements of this Section is and shall be a material term of the contract.

E. Administrative Charges. The Contractor understands that if it does not timely perform its obligations pursuant to the terms of the contract or violates any provision of the contract, Town will suffer damages which are difficult to determine and to adequately specify. The Contractor agrees, in addition to any other remedies available to Town, that Town may withhold payment from Contractor in the amounts specified below as administrative charges for failure of the Contractor to fulfill its obligations, subject to events of force majeure. The following acts or omissions shall be considered a breach of the contract and Town may require payment by the Contractor of the charges set forth for each act. Any failed collection due to garbage not placed out for collection or placed out late as determined by the Contractor, may not be considered as an omission below, therefore, not eligible for administrative charges.

OMISSION	LIQUIDATED DAMAGES
Commencement of collection prior to 7:00 a.m. except as expressly permitted herein.	\$100 per incident (each truck on each route is a separate incident)
Failure to collect and clean up spillage within one (1) business day.	\$50 per incident
Unsanitary condition of vehicle exterior.	\$100 per incident
Failure to collect missed Garbage, Bulk/Brush Waste or Recyclables, within one business day (including Saturday). Or repeat misses of any required collection services on more than two (2) occasions.	\$25 each incident to a maximum of \$250 per truck per day
Missed collection of whole block. (This excludes collections prevented by weather and holiday rescheduling). A whole block miss is defined as missing 3 or more houses on the same side of the street.	\$200 per whole block
Failure to deliver or replace Poly Carts, or Curbside Recycling Wheeled Containers for any reason within three (3) business days of notification.	\$50 per container per day
Any additional misses, at the same address, within one (1) year after Contractor's receipt of 2 nd notice regarding no collection.	\$200 each incident
Complaint notifications received by the Town in excess of twenty (20) per month.	\$30 per notification
Failure to make all required collections during a week due to non-weather-related service disruptions.	\$500 per collection route
Failure to provide complete and accurate monthly report and franchise fee by the 10 th day of each quarter.	\$250 per incident after the 15 th day of each quarter

As used herein, "events of force majeure" shall mean an incident, situation, or act of a third party that is beyond a party's reasonable control such as an act of God, an act of the public enemy, strikes or other labor disturbances (other than strikes within such party's own labor force), hurricanes, earthquakes, fires, floods, epidemics/pandemics, embargoes, war, and riots. The Contractor will not be responsible for administrative charges for its temporary failure to perform because of an event of force majeure, provided, however, that the Contractor submits written notice thereof to the Town within three (3) calendar days of the event identifying the specific cause(s) and estimated duration of the delay. The failure to provide timely notice to the Town is a waiver of any claim of delay and shall be conclusively regarded as an admission that any delay or failure to perform was not attributable to a force majeure event.

F. Remittance of Charges: Town may impose administrative charges when the Town determines that performance consistent with the provisions of the contract has not occurred. The Town shall notify the Contractor in writing or electronically of each act or omission under the terms of the contract reported to or discovered by Town or its designee. The Contractor may appeal the Town's assessments of administrative charges to the Town Council in writing, filed within 20 days of its receipt of notice of an assessment. The Council shall hear the appeal and promptly render a determination to uphold, reverse or modify the assessment. The Council's determination shall be final and binding.

G. It shall be the duty of the Contractor to take whatever steps or action may be necessary to remedy the cause of any complaint. The remedy available to Town under this Section are in addition to all other remedies which the Town may have under law, at equity, or pursuant to the terms of the contract. Contractor's obligations to make payments for such charges under this section occurring prior to the expiration or termination of this contract shall survive termination or expiration of this contract.

SECTION 7. INSURANCE; INDEMNIFICATION

A. The Contractor shall exercise due care and caution in providing the Services so that the Town's public and private property, including streets, road signs and fixtures, and parking areas, will be protected and preserved.

B. Minimum Limits of Insurance: The Contractor shall procure and maintain the following minimum types of coverages:

Worker's Compensation or other State-approved program	As set forth in the Worker's Compensation Act.
Commercial General	\$1,000,000 Each Accident/Occurrence. \$2,000,000 Aggregate
City's Protective Liability Insurance	\$600,000 per occurrence \$1,000,000 aggregate
Excess/Umbrella Liability	\$1,000,000 per occurrence w/drop down coverage.
Automobile Liability	\$1,000,000 Combined single limit per occurrence.

C. The Town reserves the right to review the insurance requirements of this section during the effective period of the contract and any extension or renewal period and to require adjustment of insurance coverages and their limits when deemed necessary and prudent by the Town based upon changes in statutory law or court decisions.

F. Each insurance policy to be purchased by Contractor shall include the conditions as described below, as well as the following conditions by endorsement to the policy:

1. the General liability insurance policy shall name Town and its officers, employees, and elected representatives as an additional insured without restrictions via blanket-form endorsement;
2. the policy phrase "other insurance" shall not apply to the Town where the Town is an additional insured; the policy shall specify that it is primary and non-contributory with any of the Town's policies and will state that each insured is provided coverage as though a separate policy had been issued to each, except that the insurer's liability will not be increased beyond the amount for which the insurer would have been liable had only one insured been covered;
3. each policy, except workers' compensation or other state approved program, shall require that 30 days prior to cancellation, non-renewal or any material change in coverage, a notice thereof shall be sent to Town by email. If the policy is canceled for nonpayment of premium, only 10 days' written notice to Town is required;
4. the term "Town" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of the Town and individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of the Town;
5. all policies are to be written through companies duly licensed to transact that class of insurance in the State of Texas;

6. all liability policies required herein shall be written with an "occurrence" basis coverage trigger;
7. prior to the effective date of cancellation of any policy, Contractor shall deliver to the Town a replacement certificate of insurance evidencing coverage;
8. each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least A-;
9. the Special Provisions Section shall state that the liability policies have been endorsed via blanket-form endorsement to provide for waivers of subrogation, to provide that those policies are primary and non-contributory as to the Town; and
10. General Liability insurance with combined single limits of not less than \$1,000,000 shall be provided and maintained by the Contractor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

E. Indemnification: THE TOWN SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, DEFENDED, HELD HARMLESS AND RELEASED BY CONTRACTOR FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, INJURY OR LOSS TO ANY PROPERTY, OR ECONOMIC LOSS, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING THE CONTRACTOR, OR PROPERTY, DIRECTLY OR INDIRECTLY ARISING OUT OF, OR OCCASIONED BY THE PERFORMANCE OF CONTRACTOR UNDER THIS CONTRACT, WITHOUT WAIVING THE TOWN'S GOVERNMENTAL, SOVEREIGN OR OTHER IMMUNITIES OR DEFENSES AVAILABLE TO THE Town UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS CONTRACT THAT THE INDEMNITY PROVIDED FOR HEREIN IS AN INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY AND PROTECT Town FROM THE CONSEQUENCES OF THE CONTRACTOR'S NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE.

1. If any action is brought against the Town, or any officer, employee or agent of the Town, in any way arising from the performance of this contract by the Contractor; or for the failure, omission, or neglect of the Contractor to perform any of the covenants, acts, matters, or things under the contract; or for injury or damage or loss caused by the alleged negligence of the Contractor or its subcontractors, officers, employees, or agents; or in connection with any claim based on lawful demands of subcontractors, workmen, material men, or suppliers, the Contractor shall indemnify, defend and hold harmless the Town and its officers and agents, from all losses, damages, costs, expenses (including but not limited to attorney's fees and expenses), judgments, or decrees arising out of such action.

2. The Contractor is solely responsible for and shall defend, indemnify, and hold Town (or any of Town's officials, officers, representatives or employees), free and harmless from and against any and all claims, liabilities, demands, losses, damages, costs or expense to all persons (including but not limited to reasonable attorneys' fees) arising out of resulting from or occurring in connection with the performance of the work that is (i) attributable to any bodily or personal injury, sickness, diseases or death of any person or any damage or injury to or destruction of real or personal property (other than the work itself) including the loss of use thereof, and (ii) caused in whole or in part by any negligent, strict liability or other act or omission of the Contractor, any subcontractor or supplier, their respective agents or employees or any other party for whom any of them may be liable regardless of whether such is caused in part by the negligent, strict liability or other act or omission of a party or parties indemnified hereunder.

3. The foregoing indemnity, defense and hold harmless agreement shall also apply to claims arising from accidents to the Contractor, its agents or employees, whether occasioned by the Contractor or its employees, the owner or his employees, or by any other person or persons. The indemnification obligations under this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

1. The provisions of the foregoing indemnification clauses are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

SECTION 8. TITLE TO EQUIPMENT

Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that all equipment, provided by the Contractor in connection with the Services, as noted above, shall at all times remain the property of the Contractor.

SECTION 9. EXCLUSIONS

Notwithstanding anything to the contrary contained herein, this Agreement shall not cover the collection, hauling or disposal of any Hazardous Waste, dead animals, auto parts or used tires from any customer; provided, however, that any customer may negotiate an agreement on an individual basis regarding the collection, hauling or disposal of dead animals, auto parts or used tires with the Contractor or another reputable third party.

SECTION 10. ASSIGNMENT

This Agreement shall not be assignable or otherwise transferable by the Contractor without the prior written consent of the Town; provided, however, that the Contractor may assign this Agreement to any affiliate or subsidiary of the Contractor or to any person or entity succeeding to all or substantially all of the Contractor's assets of (whether by operation of law, merger, consolidation or otherwise) without the Town's prior written consent.

SECTION 11. ENFORCEMENT

During the term of this Agreement and any extension thereof, the Town agrees to adopt and maintain ordinances that will enable the Contractor to provide the services set forth herein. The Town shall take any action reasonably necessary to prevent any other solid waste collection company from conducting business in violation of the exclusive franchise granted herein, including subrogating the Town's enforcement rights to Contractor. If the Contractor experiences recurring problems of damage or destruction to or theft of the Containers provided by the Contractor pursuant to this Agreement, the Contractor may, prior to replacing or repairing such Containers, require reasonable security deposits from the customer utilizing such Containers. To the maximum extent allowed by applicable law, the City also hereby grants to the Service Provider the right of ingress and egress from and upon the property of Commercial, Industrial and Residential Units for the purposes of rendering the Services contemplated hereby.

SECTION 12. SPILLAGE

It is understood and agreed that the Contractor shall not be required, but may, clean up, collect or dispose of any loose or spilled Residential or Municipal Solid Waste not caused by the Contractor's rendering of services, or be required or collect and dispose of any excess Residential or Municipal Solid Waste placed outside of the Containers by any customer. The Contractor may report the location of such conditions to the Town so that the Town can issue proper notice to the customer instructing the customer to properly contain such Residential or Municipal Solid Waste. Should excess Residential or Municipal Solid Waste continue to be placed outside of the Containers, the Town authorizes the Contractor to issue an additional container or more frequent pickups of roll-off or dumpster if deemed necessary, the Contractor shall be compensated for these additional Services as provided for in Section 4.D for each additional container requiring an extra collection, hereof, and the Contractor shall remit an appropriate franchise fee under Section 4.A.

SECTION 13. HOURS OF SERVICE

For all the services provided hereunder, the Contractor's hours of service shall be between 7:00 AM and 7:00 PM, Monday through Saturday. The Contractor will not be required to provide service on Sunday or Holidays except during natural disasters or emergencies, and may, at its sole discretion, observe Holidays during the term of this Agreement.

SECTION 14. COMPLIANCE WITH APPLICABLE LAWS

The Contractor shall comply with all applicable federal and state laws regarding the collection, hauling and disposal of Solid Waste, including existing and future laws that may be enacted, as well as any regulations reasonably passed by the Town not in conflict with this Agreement. Nothing in this Agreement shall be construed in any manner to abridge the Town's right to pass or enforce necessary police and health regulations for the reasonable protection of its inhabitants. The Town shall have the right to make reasonable inspections of the Contractor in order to ensure compliance with these requirements in this Section 14.

SECTION 15. VEHICLES AND EQUIPMENT

Vehicles used by the Contractor for the collection, hauling and disposal of Residential or Municipal Solid Waste and Construction and Demolition Waste pursuant to this Agreement shall be protected at all times while in transit to prevent the blowing or scattering of waste onto the Town's public streets, or properties adjacent thereto, and such vehicles shall be clearly marked on both sides with the Contractor's name in letters and numbers not less than two (2) inches in height. The Town may adopt weight limits and maximum vehicle axle weight limits on vehicles used by Contractor as the Town deems appropriate to minimize disruption and damage to the Town's streets, alleys and rights-of-way. Trucks operated within the Town of Poetry for residential collection must be single axle (1 steering and 1 rear) and may not exceed 33,000 pounds GVWR. Trucks used for commercial and roll-off services may be tandem axle (1 steering and 2 rear) and may not exceed 60,000 pounds GVWR.

SECTION 16. SEVERABILITY

In the event that any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable, this Agreement shall, to the extent reasonably possible, remain in force as to the balance of its terms and provisions as if such invalid term or provision were not a part hereof.

SECTION 17. TERMINATION

- A. If City notifies Contractor of a failure of Contractor to perform a material provision of this Contract and Contractor has failed to cure such failure on or before the thirtieth (30th) day following such notice, or if such failure can be cured, but cannot be reasonably cured within said thirty (30) days, then by the date
- Solid Waste Exclusive Franchise Agreement of Ordinance 2023-12-01 Dec 2023

such failure should reasonably be cured, but in no case later than sixty (60) days after delivery of the notice from City, City may terminate this Contract by delivery of written notice to Contractor. Following any such termination, neither Party shall have any further obligation under this Contract other than for claims for personal injuries or property damage and the right to be indemnified therefor as expressly provided in this Contract and arising prior to such termination date, and/or such claims which accrue during Contractor's wind-down of business operations pursuant to the Agreement.

- B. **Dispute Resolution.** The Parties hereto agree that prior to filing suit with respect to any dispute between the Parties arising from or related to this Contract to submit the dispute to a binding mediation, with the cost of said mediation to be split evenly by the Parties.

SECTION 18. FORCE MAJEURE

The performance of this Agreement may be suspended, and the obligations hereunder excused in the event and during the period that such performance is prevented by an incident, situation, or act of a third party that is beyond a party's reasonable control such as an act of God, an act of the public enemy, strikes or other labor disturbances (other than strikes within such party's own labor force), hurricanes, earthquakes, fires, floods, epidemics/pandemics, embargoes, war, and riots.

SECTION 19. GOVERNING LAW

This Agreement shall be governed in all respects, including as to validity, interpretation and effect, by the laws of the State of Texas. The parties hereby agree that exclusive venue of any action arising under the terms of this Agreement shall be in the state courts of appropriate jurisdiction in Hunt and/or Kaufman County, Texas, depending on the location of the incident giving rise to a cause of action.

SECTION 20. NOTICE

Any notices required or permitted to be delivered to the Town under this Agreement shall be deemed receivable when sent by email and by United States mail, postage pre-paid, certified mail, return receipt requested, at the address set forth below:

If to the Town:

Poetry Town Hall
5671 CR323
Poetry, TX 75160
ATTN: Mayor
mayor.tara@poetrytexas.org and secretary@poetrytexas.org.

If to the Contractor:

Blackjack Disposal
Attn: Dick Demien
5770 TX-34
Quinlan, Texas 75474
And by email to ddemien@blackjackdisposal.com

SECTION 21. MERGER CLAUSE

This Agreement is the entire agreement between the parties with respect to the subject matter covered in this Agreement. There is no other collateral, oral, or written agreement between the parties that in any matter relates to the subject matter of this Agreement, except as provided in the Agreement documents.

SECTION 23. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

SECTION 24. RECITALS

The recitals to this Agreement are incorporated herein.

SECTION 25. EFFECTIVE DATE

The Effective Date of this Agreement, and the date that Solid Waste Services are to commence, is
21st day of December, 2023.

Executed in single or multiple originals this 29th day of December, 2023.

CONTRACTOR
DOLIVER ENTERPRISES, LLC
d/b/a BLACKJACK DISPOSAL

TOWN OF POETRY, TEXAS

By: Andrea Oliver

Andrea Oliver, Managing Member
5770 Highway 34 S
Quinlan, Texas 75474
ddemien@blackjackdisposal.com

By: Tara Senkevech

Tara Senkevech, Mayor
5671 CR 323
Poetry, TX 75160

ATTEST:

By: Theresa Schlender
Town Secretary



ADDENDUM B

NONEXCLUSIVE FOR ROLL-OFF COLLECTIONS

FRANCHISE AGREEMENT FOR THE COLLECTION, HAULING AND DISPOSAL OF MUNICIPAL SOLID WASTE IN THE TOWN OF POETRY, TEXAS

THIS FRANCHISE AGREEMENT (this "Agreement") is made and entered into as of the date set forth hereinbelow and is by and between Doliver Enterprises LLC, ("CONTRACTOR"), and the Town of Poetry, Texas (the "Town"). dba Blackjack Disposal

WHEREAS, the Town is empowered under state and local law to provide solid waste collection and disposal services to its residents and commercial businesses and has the authority to enter into solid waste service contracts to acquire, sell, lease or allow for the operation of all or any part of a solid waste management system, including the collection, transportation and disposal of solid waste; and

WHEREAS, the Town has engaged in agreements with other vendors for exclusive solid waste collections from residential customers and, by this Agreement, desires to provide for the nonexclusive collection of solid waste from nonresidential customers; and

WHEREAS, the Town, subject to the terms and conditions set forth herein and the ordinances and regulations of the Town, desires to grant to the Contractor the franchise, license and privilege to collect, haul and dispose of Solid Waste (as such term is defined herein) within the Town's corporate limits.

NOW, THEREFORE, in consideration of the premises and the mutual promises, covenants and agreements set forth herein, the Contractor and the Town hereby agree as follows:

SECTION 1. DEFINITIONS

The following terms, as used herein, will be defined as follows:

Bulky Waste: Bulky Waste shall mean solid waste composed of materials not easily contained in a cart such as, but not limited to white goods, furniture, yard trimmings, large electronics, and other oversized solid waste. Any solid waste not placed within a Cart will be removed by the Contractor as Bulky Waste.

Contractor: Doliver Enterprises LLC dba Blackjack Disposal a Texas [entity] authorized and registered to do business in the State of Texas, and its successors and assigns.

Construction and Demolition Waste: Solid Waste resulting from construction or demolition activities or that is directly or indirectly the by-product of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber and wood products. Construction and Demolition Waste does not include Hazardous Waste or Municipal Solid Waste.

Gross Receipts. The total amounts the Contractor received from all sources within the Town during the quarter, without subtracting any costs or expenses

Hazardous Waste: Solid Waste identified or listed as a hazardous waste by the administrator of the United

States Environmental Protection Agency (EPA) under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and as subsequently amended, or so classified by any federal or State of Texas statute, rule, order or regulation.

Holidays: The following days:

- (1) New Year's Day (January 1st)
- (2) Memorial Day [at discretion of vendor]
- (3) Independence Day (July 4th)
- (4) Labor Day [at discretion of vendor]
- (5) Thanksgiving Day
- (6) Christmas Day (December 25th).

Landfill: Any facility or area of land receiving Municipal Solid Waste, Residential Solid Waste, or Construction and Demolition Waste and operating under the regulation and authority of the Texas Commission on Environmental Quality ("TCEQ") within the State of Texas, or the appropriate governing agency for landfills located outside the State of Texas.

Solid Waste: Solid Waste shall mean garbage, rubbish, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:

- a) Solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under Texas Water Code, Chapter 26;
- b) Solid, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvement;
- c) Waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under Natural Resources Code, §91.101, unless the waste, substance, or material results from activities associated with gasoline plants, natural gas liquids processing plants, pressure maintenance plants, or depressurizing plants and is hazardous waste as defined by the administrator of the EPA under the federal Solid Waste Disposal Act, as amended by RCRA, as amended (42 USC, §§6901 et seq.); or
- d) Unacceptable waste.

Solid Waste Services: Solid Waste Services shall mean the collection and disposal of solid waste including bulky waste.

SECTION 2. FRANCHISE GRANT

The Contractor is hereby granted the nonexclusive license, privilege and duty, to the extent allowed by law, within the territorial jurisdiction of the Town, to provide Solid Waste collection, hauling and disposal for commercial and industrial/roll-off customers, construction and demolition waste, and recyclable materials collection and processing in accordance with this Agreement and the Ordinances of the Town and to perform all of the work called for and described in this Agreement. Contractor agrees to furnish all personnel, labor, equipment, trucks, and other items necessary to provide Solid Waste Services to its customers within the Town.

SECTION 3. TERM

The term this Agreement shall be for a period of one year, beginning on 12-21, 2023 and terminating on the 2nd anniversary of said date. This Agreement may be renewed (1) year terms unless either

party gives written notice of election not to renew the Agreement to the other party, not less than sixty (60) days prior to the expiration of the original or any renewal term.

SECTION 4. FRANCHISE FEES; RATES FOR SERVICE

A. Fee. For the right and privilege of using the Town's public rights-of-way, **the Contractor will pay the Town a franchise fee of \$25 per haul of roll-off resulting from the operation of the solid waste collection service** within the Town. The rates shown below do not include the administrative fee. The fee shall not include amounts billed to customers until paid or collected by Contractor.

B. Due Dates. Franchise fees shall be paid to the Town on or before the tenth (10th) day after the beginning of each quarter for amounts received by the Contractor for the performance of Services during the quarter, according to the following dates.

1st quarter: January 10th

2nd quarter: April 10th

3rd quarter: July 10th

4th quarter: October 10th

If this Agreement is entered into or terminated in the middle of a quarter, the applicable quarter will be prorated to exclude the time during the quarter in which no Service was provided. The Town agrees that payments owing from the Contractor pursuant to this Agreement shall be based solely on the Services rendered by the Contractor.

C. Reports; accountability. Each payment to the Town shall be accompanied by a statement detailing Contractor's quantities of each service type and showing sufficient information to enable the Town to verify the accuracy of each quarterly payment. The Town may review Contractor's books and records that relate to customers within the Town's corporate limits, or may conduct an audit of books and records, on reasonable notice any time during the term of this Agreement and for a period of two (2) years thereafter. Any information obtained by Town as a result of a review or audit shall be kept and maintained by the Town as confidential, and may only be disclosed to employees, representatives, and agents of the Town that have a need to know, or in order to enforce the provisions hereof, except where required by law or court order to disclose such information. An audit shall be at Town expense unless the audit discloses an underpayment of more than five percent (5%) of the amount that was otherwise due, in which case the Contractor shall pay or reimburse the Town for all costs.

D. Rates. The rates charged by Contractor to customers within the Town shall be as may be negotiated between the Contractor and its customer.

E. Audit: The Town may, on reasonable notice, at reasonable times, and at the Town's expense, request and conduct an audit of the Contractor's books and records to establish compliance with the rates and fees charged under this Contract. To the extent allowed by law, the Town will maintain the confidentiality of all information received by the Town in such audits.

SECTION 5. OPERATIONS

A. Scope of operations. It is expressly understood and agreed that the Contractor will collect, haul and dispose of Solid Waste during Business Days: (i) generated and accumulated by Contractor's customers, and (ii) placed within Containers, if required by Contractor, by those customers receiving the services of the Contractor, all within the Town's corporate limits, including any territories annexed by the Town during the

term of this Agreement. This Agreement does not cover services provided in the Town's extraterritorial jurisdiction **unless the driveway to the residence is in the town's borders**. The frequency of collections shall be as negotiated between the Contractor and the customer.

B. Application. This Ordinance franchise shall apply to any property or easement that abuts any roadway including, but not limited to a private road, county road, state road, and/or town roads within the Town's incorporated boundaries where solid waste might be collected.

C. Nature of operations. The Town hereby grants to the Contractor, in accordance with this Agreement and the Town's ordinances and regulations governing the collection, hauling and disposal of Solid Waste, the title to all Solid Waste collected, hauled and disposed of by the Contractor over, upon, along and across the present and future streets, alleys, bridges, and rights-of-ways. All title to and liability for materials excluded from this Agreement shall remain with the generator of such materials.

D. Hours/Days of Operation. Collection of Solid Waste shall begin no earlier than 7:00 o'clock a.m. and shall generally not extend beyond 7:00 o'clock p.m. These hours may be extended or altered with the approval of the Town. No regular weekly residential collection shall occur on Saturday, unless needed to accommodate collection schedule shifts due to holidays. No collection shall be made on Sunday.

E. Monthly Reporting. Complete and accurate monthly reports must be submitted to the Town on or before the tenth (10th) day of each month. Monthly reports must contain the following information:

1. Amount of Solid Waste and Program Recyclable Materials Collected – Spreadsheet listing amounts (in tons/pounds) of solid waste and program recyclable materials collected by customer type. The spreadsheet must also include year-to-date totals.
2. Customer List for Roll-off Services – identify each by address and level of service, name, and contact information.
3. Billing and Revenue Documentation – documentation justifying the billings and revenue derived by the successful proposer for services within the Town.
4. Summary of motor vehicle accidents or moving violations involving the successful proposer's vehicles – identify the vehicle, employee, and description of the violation.

SECTION 6. COMPLAINTS; MISSED COLLECTIONS

A. Local Office: The Contractor shall maintain an office or other facilities through which they can be contacted. The office shall be equipped with sufficient telephones having local phone numbers and shall be staffed by at least one responsible and competent person (a customer service representative) available to answer the phone from 8:00- 5:00 p.m. on regular collection days. When residential collection is postponed one day for the holiday schedule the Contractor's customer service personnel must be available to answer phones on all days during which collection service is provided. An informative recording answering frequently asked questions and voicemail shall be available at all other hours.

B. Complaint Resolution. The Contractor will be primarily responsible for complaints, which shall be directed to the Contractor, and the Contractor shall give each complaint received prompt and courteous attention. **The Contractor shall maintain a log of complaints and shall provide the Town, monthly, with copies of all complaints indicating the date and hour of the complaint, the nature of the complaint, and the manner and timing of its resolution. If a complaint cannot be resolved, it is the Contractor's responsibility to provide adequate documentation to demonstrate that the complaint was handled in a satisfactory manner.**

B. Missed Collections. The Contractor shall notify the Town by 4:00 PM, Central Time, when a route may not be completed before 7:00 PM, Central Time. The Contractor shall notify the Town immediately upon discovering a street, portion of a route, or a complete route was not collected as scheduled. When notification of a missed collection is received by the Contractor before 4:00 PM, Central Time, and such allegation cannot be disproved by using Global Positioning System (GPS) equipment to document the fact that the Contractor attempted to provide services to such customer, the Contractor shall dispatch a truck and provide the collection before 7:00 PM, Central Time on the same day. When notification of a missed collection is received by the Contractor after 4:00 PM, Central Time and such allegation cannot be disproved using GPS, the Contractor shall provide collection within the next 24 hours and inform all residents impacted by such a missed collection of the time the corrective collection will be provided and email secretary@poetrytexas.org and mayor.tara@poetrytexas.org

When notification of a missed collection is received after 4:00 PM, Central Time on the day preceding a holiday and such allegations cannot be disproved, the Contractor shall provide collection within the first three (3) hours of the day after the holiday.

D. Materiality. Compliance with the complaint resolution, customer grievance, and reporting requirements of this Section is and shall be a material term of the contract.

E. Administrative Charges. The Contractor understands that if it does not timely perform its obligations pursuant to the terms of the contract or violates any provision of the contract, Town will suffer damages which are difficult to determine and to adequately specify. The Contractor agrees, in addition to any other remedies available to Town, that Town may withhold payment from Contractor in the amounts specified below as administrative charges for failure of the Contractor to fulfill its obligations, subject to events of force majeure. The following acts or omissions shall be considered a breach of the contract and Town may require payment by the Contractor of the charges set forth for each act.

OMISSION	LIQUIDATED DAMAGES
Commencement of collection prior to 7:00 a.m. except as expressly permitted herein.	\$100 per incident (each truck on each route is a separate incident)
Failure to collect and clean up spillage within one (1) business day.	\$50 per incident
Unsanitary condition of vehicle exterior.	\$100 per incident
Failure to collect missed Garbage, Bulk/Brush Waste, within one business day (including Saturday). Or repeat misses of any required collection services on more than two (2) occasions.	\$25 each incident to a maximum of \$250 per truck per day
Any additional misses, at the same address, within one (1) year after Contractor's receipt of 2 nd notice regarding no collection.	\$200 each incident
Complaint notifications received by the Town in excess of ten (10) per month.	\$30 per notification
Failure to make all required collections during a week due to non-weather-related service disruptions.	\$250 per incident
Failure to provide complete and accurate monthly report by the 15 th of each month provided in quarterly report	\$250 per quarterly report not received by the 15 th of the quarter.

As used herein, "events of force majeure" shall mean an incident, situation, or act of a third party that is beyond a party's reasonable control such as an act of God, an act of the public enemy, strikes or other labor disturbances (other than strikes within such party's own labor force), hurricanes, earthquakes, fires, floods, epidemics/pandemics, embargoes, war, and riots. The Contractor will not be responsible for administrative charges for its temporary failure to perform because of an event of force majeure, provided, however, that the Contractor submits written notice thereof to the Town within three (3) calendar days of the event identifying the specific cause(s) and estimated duration of the delay. The failure to provide timely notice to the Town is a waiver of any claim of delay and shall be conclusively regarded as an admission that any delay or failure to perform was not attributable to a force majeure event.

F. Remittance of Charges: Town may impose administrative charges when the Town determines that performance consistent with the provisions of the contract has not occurred. The Town shall notify the Contractor in writing or electronically of each act or omission under the terms of the contract reported to or discovered by Town or its designee. The Contractor may appeal the Town's assessments of administrative charges to the Town Council in writing, filed within 20 days of its receipt of notice of an assessment. The Council shall hear the appeal and promptly render a determination to uphold, reverse or modify the assessment. The Council's determination shall be final and binding.

G. It shall be the duty of the Contractor to take whatever steps or action may be necessary to remedy the cause of any complaint. The remedy available to Town under this Section are in addition to all other remedies which the Town may have under law, at equity, or pursuant to the terms of the contract. Contractor's obligations to make payments for such charges under this section occurring prior to the expiration or termination of this contract shall survive termination or expiration of this contract.

SECTION 7. INSURANCE; INDEMNIFICATION

A. The Contractor shall exercise due care and caution in providing the Services so that the Town's public and private property, including streets, road signs and fixtures, and parking areas, will be protected and preserved.

B. Minimum Limits of Insurance: The Contractor shall procure and maintain the following minimum types of coverages:

Worker's Compensation or other State-approved program	As set forth in the Worker's Compensation Act.
Commercial General	\$1,000,000 Each Accident/Occurrence. \$2,000,000 Aggregate
City's Protective Liability Insurance	\$600,000 per occurrence \$1,000,000 aggregate
Excess/Umbrella Liability	\$1,000,000 per occurrence w/drop down coverage.
Automobile Liability	\$1,000,000 Combined single limit per occurrence.

C. The Town reserves the right to review the insurance requirements of this section during the effective period of the contract and any extension or renewal period and to require adjustment of insurance coverages and their limits when deemed necessary and prudent by the Town based upon changes in statutory law or court decisions.

C. Each insurance policy to be purchased by Contractor shall include the conditions as described below, as well as the following conditions by endorsement to the policy:

1. the General liability insurance policy shall name Town and its officers, employees, and elected representatives as an additional insured without restrictions via blanket-form endorsement;
2. the policy phrase "other insurance" shall not apply to the Town where the Town is an additional insured; the policy shall specify that it is primary and non-contributory with any of the Town's policies and will state that each insured is provided coverage as though a separate policy had been issued to each, except that the insurer's liability will not be increased beyond the amount for which the insurer would have been liable had only one insured been covered;
3. each policy, except workers' compensation or other state approved program, shall require that 30 days prior to cancellation, non-renewal or any material change in coverage, a notice thereof shall be sent to Town by email. If the policy is canceled for nonpayment of premium, only 10 days' written notice to Town is required;
4. the term "Town" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of the Town and individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of the Town;
5. all policies are to be written through companies duly licensed to transact that class of insurance in the State of Texas;
6. all liability policies required herein shall be written with an "occurrence" basis coverage trigger;
7. prior to the effective date of cancellation of any policy, Contractor shall deliver to the Town a replacement certificate of insurance evidencing coverage;
8. each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least A-;
9. the Special Provisions Section shall state that the liability policies have been endorsed via blanket-form endorsement to provide for waivers of subrogation, to provide that those policies are primary and non-contributory as to the Town; and
10. General Liability insurance with combined single limits of not less than \$1,000,000 shall be provided and maintained by the Contractor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

E. **Indemnification:** THE TOWN SHALL NOT BE LIABLE OR RESPONSIBLE FOR, AND SHALL BE INDEMNIFIED, DEFENDED, HELD HARMLESS AND RELEASED BY CONTRACTOR FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, INJURY OR LOSS TO ANY PROPERTY, OR ECONOMIC LOSS, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS, INCLUDING THE CONTRACTOR, OR PROPERTY, DIRECTLY OR INDIRECTLY ARISING OUT OF, OR OCCASIONED BY THE PERFORMANCE OF CONTRACTOR UNDER THIS CONTRACT, WITHOUT WAIVING THE TOWN'S GOVERNMENTAL, SOVEREIGN OR OTHER IMMUNITIES OR DEFENSES AVAILABLE TO THE TOWN UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS CONTRACT THAT THE INDEMNITY PROVIDED FOR HEREIN IS AN

Addendum B Non-Exclusive Franchise Agreement of Ordinance 2023-12-01 Page 7 of 11

INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY AND PROTECT TOWN FROM THE CONSEQUENCES OF THE CONTRACTOR'S NEGLIGENCE, WHETHER SUCH NEGLIGENCE IS THE SOLE OR PARTIAL CAUSE OF ANY SUCH INJURY, DEATH, OR DAMAGE.

1. If any action is brought against the Town, or any officer, employee or agent of the Town, in any way arising from the performance of this contract by the Contractor; or for the failure, omission, or neglect of the Contractor to perform any of the covenants, acts, matters, or things under the contract; or for injury or damage or loss caused by the alleged negligence of the Contractor or its subcontractors, officers, employees, or agents; or in connection with any claim based on lawful demands of subcontractors, workmen, material men, or suppliers, the Contractor shall indemnify, defend and hold harmless the Town and its officers and agents, from all losses, damages, costs, expenses (including but not limited to attorney's fees and expenses), judgments, or decrees arising out of such action.

2. The Contractor is solely responsible for and shall defend, indemnify, and hold Town (or any of Town's officials, officers, representatives or employees), free and harmless from and against any and all claims, liabilities, demands, losses, damages, costs or expense to all persons (including but not limited to reasonable attorneys' fees) arising out of resulting from or occurring in connection with the performance of the work that is (i) attributable to any bodily or personal injury, sickness, diseases or death of any person or any damage or injury to or destruction of real or personal property (other than the work itself) including the loss of use thereof, and (ii) caused in whole or in part by any negligent, strict liability or other act or omission of the Contractor, any subcontractor or supplier, their respective agents or employees or any other party for whom any of them may be liable regardless of whether such is caused in part by the negligent, strict liability or other act or omission of a party or parties indemnified hereunder.

3. The foregoing indemnity, defense and hold harmless agreement shall also apply to claims arising from accidents to the Contractor, its agents or employees, whether occasioned by the Contractor or its employees, the owner or his employees, or by any other person or persons. The indemnification obligations under this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

1. The provisions of the foregoing indemnification clauses are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

SECTION 8. TITLE TO EQUIPMENT

Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that all equipment, provided by the Contractor in connection with the Services, as noted above, shall at all times remain the property of the Contractor.

SECTION 9. EXCLUSIONS

Notwithstanding anything to the contrary contained herein, this Agreement shall not cover the collection, hauling or disposal of any Hazardous Waste, dead animals, auto parts or used tires from any customer; provided, however, that any customer may negotiate an agreement on an individual basis regarding the collection, hauling or disposal of dead animals, auto parts or used tires with the Contractor or another reputable third party.

SECTION 10. ASSIGNMENT

In the event that any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable, this Agreement shall, to the extent reasonably possible, remain in force as to the balance of its terms and provisions as if such invalid term or provision were not a part hereof.

SECTION 17. TERMINATION

A. The sufficiency of the grounds for termination as enumerated hereinafter shall be within the sole discretion of the Town Council. It is understood and agreed that this license may be terminated after hearing before the Town Council if:

1. The Contractor has failed to give prompt and courteous attention to, and correct complaints filed by its customers.
2. The Contractor has failed to provide an adequate regular collection service or is in an any way in violation of this Agreement, after being given a reasonable time to correct such failure or violation.
3. The failure of the Contractor to abide by any of the terms and conditions of this Agreement, applicable ordinances of the Town, or State or Federal regulations.
4. The filing of bankruptcy or receivership proceedings, transfers for the benefit of creditors, or acts evidencing insolvency.
5. For cause as determined by the Town Council.
6. For convenience, when such convenience is determined by the Town Council to be in the best interest of the public health, safety and welfare.

B. In the event of termination for the reasons set forth in the foregoing paragraphs A (1) through (5) the Town shall notify Contractor of the reasons for consideration of termination and Contractor shall have a period of thirty (30) days to cure such reason.

C. Contractor may terminate this Agreement upon written notice received by the Town not less than 60 days before the date set forth in said notice for termination.

SECTION 18. FORCE MAJEURE

The performance of this Agreement may be suspended, and the obligations hereunder excused in the event and during the period that such performance is prevented by an incident, situation, or act of a third party that is beyond a party's reasonable control such as an act of God, an act of the public enemy, strikes or other labor disturbances (other than strikes within such party's own labor force), hurricanes, earthquakes, fires, floods, epidemics/pandemics, embargoes, war, and riots.

SECTION 19. GOVERNING LAW

This Agreement shall be governed in all respects, including as to validity, interpretation and effect, by the laws of the State of Texas. The parties hereby agree that exclusive venue of any action arising under the terms of this Agreement shall be in the state courts of appropriate jurisdiction in Hunt and/or Kaufman County, Texas, depending on the location of the incident giving rise to a cause of action.

SECTION 20. NOTICE

This Agreement shall not be assignable or otherwise transferable by the Contractor without the prior written consent of the Town; provided, however, that the Contractor may assign this Agreement to an affiliate of the Contractor without the Town's prior written consent.

SECTION 11. ENFORCEMENT

During the term of this Agreement and any extension thereof, the Town agrees to adopt and maintain ordinances that will enable the Contractor to provide the services set forth herein.

SECTION 12. SPILLAGE

It is understood and agreed that the Contractor shall not be required, but may, clean up, collect or dispose of any loose or spilled Residential or Municipal Solid Waste not caused by the Contractor's rendering of services, or collect and dispose of any excess Residential or Municipal Solid Waste placed outside of the Containers by any customer. The Contractor may report the location of such conditions to the Town so that the Town can issue proper notice to the customer instructing the customer to properly contain such Residential or Municipal Solid Waste. Should excess Residential or Municipal Solid Waste continue to be placed outside of the Containers, the Town authorizes the Contractor to issue an additional container or more frequent pickups of roll-off or dumpster if deemed necessary.

SECTION 13. HOURS OF SERVICE

For all the services provided hereunder, the Contractor's hours of service shall be between **7:00 AM and 7:00 PM**, Monday through Saturday. The Contractor will not be required to provide service on Sunday or Holidays except during natural disasters or emergencies, and may, at its sole discretion, observe Holidays during the term of this Agreement.

SECTION 14. COMPLIANCE WITH APPLICABLE LAWS

The Contractor shall comply with all applicable federal and state laws regarding the collection, hauling and disposal of solid waste, including existing and future laws that may be enacted, as well as any regulations reasonably passed by the Town not in conflict with this Agreement. Nothing in this Agreement shall be construed in any manner to abridge the Town's right to pass or enforce necessary police and health regulations for the reasonable protection of its inhabitants. The Town shall have the right to make reasonable inspections of the Contractor in order to ensure compliance with these requirements.

SECTION 15. VEHICLES AND EQUIPMENT

Vehicles used by the Contractor for the collection, hauling and disposal of Municipal Solid Waste and Construction and Demolition Waste pursuant to this Agreement shall be protected at all times while in transit to prevent the blowing or scattering of waste onto the Town's public streets, or properties adjacent thereto, and such vehicles shall be clearly marked on both sides with the Contractor's name in letters and numbers not less than two (2) inches in height. The Town may adopt weight limits and maximum vehicle axle weight limits on vehicles used by Contractor as the Town deems appropriate to minimize disruption and damage to the Town's streets, alleys and rights-of-way. Trucks used for commercial and roll-off services may be tandem axle (1 steering and 2 rear) and may not exceed 60,000 pounds GVWR.

SECTION 16. SEVERABILITY

Any notices required or permitted to be delivered under this Agreement shall be deemed receivable when sent by email to the mayor, currently at mayor.tara@poetrytexas.org or the United States mail, postage pre-paid, certified mail, return receipt requested, addressed to the party at the address set forth opposite the signature of the party.

SECTION 21. MERGER CLAUSE

This Agreement is the entire agreement between the parties with respect to the subject matter covered in this Agreement. There is no other collateral, oral, or written agreement between the parties that in any matter relates to the subject matter of this Agreement, except as provided in the Agreement documents.

SECTION 23. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

SECTION 24. RECITALS

The recitals to this Agreement are incorporated herein.

SECTION 25. EFFECTIVE DATE

21st The Effective Date of this Agreement, and the date that Solid Waste Services are to commence, is day of December, 2023

Executed in single or multiple originals this 29th day of December, 2023

CONTRACTOR

By: Auchea Oliver

_____, its _____

Addresses:

TOWN OF POETRY, TEXAS

By: Tara Senkevech

Tara Senkevech, Mayor

ATTEST:

By: Sharon Scholander

Town Secretary



RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF POETRY, TEXAS, SUPPORTING THE TOWN OF POETRY'S APPLICATION TO THE TEXAS DEPARTMENT OF TRANSPORTATION'S HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) CALL FOR PROJECTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct, and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

WHEREAS, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

WHEREAS, the Texas Transportation Commission passed Minute Order Number 116522 authorizing the State to undertake and complete a highway improvement or other transportation project generally described as installing signs to rural roads, intersections, culverts and curves in the Town of Poetry,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF POETRY, TEXAS:

That the Town of Poetry supports funding the project as described in the HSIP Advanced Funding Agreement (including the planning activities, the department's direct state cost for oversight, and the required local match, if any) and is willing to commit to the project's development, financing, management, adoption and implementation of completed planning documents. The Town of Poetry is willing and able to enter into an agreement with the department by resolution, should the project be selected for funding.

That this Resolution shall take effect from and after its date of passage in accordance with law, and it is so resolved.

PASSED AND ADOPTED by the Town Council of the Town of Poetry, Texas this the _____ day of _____, 2025.

APPROVED:

Mayor

ATTEST:

Town Secretary

APPROVED AS TO FORM:

Town Attorney