

**STATE OF TEXAS
COUNTY OF WALLER
CITY OF HEMPSTEAD**

BE IT REMEMBERED that on the 19th day of September A.D., 2022 at 6:00 P.M. the City Council met in a Regular Meeting at the Hempstead City Hall, 1125 Austin Street, Hempstead, Texas, there being present, to-wit:

Erica Gillum, Mayor
Lonnie Garfield, Mayor Pro-Tem
Cindy Pearce, Councilmember
Raul Villarreal, Councilmember
Chase Murray, Councilmember
Mildred Jefferson, Councilmember

Charles Williams, City Attorney
Sabrina Alvarez, City Secretary

Others present at the meeting included Barbara Haffelfinger, Rooster Smith, David Hartley, Kollye Kilpatrick, Judith Richey, Phil Richey, Annette Baker, Susan Winfree, Chery Hardwick, Susan Whetzel, Chris Whetzel, Beverly Campbell, Pete Pieper, Jessica Holloman, Rebecca Timm, Alan Younts, Veroinca Klausmeyer, Brandy Maddox, Gloria Torres, Barbara Dozier, Rachel Lopez, Nora Hodges, Duane Mosley, Oscar Alvarez, Anthony Alvarez, Michael Rodriguez, Marc Alvarez, Yolanda Alvarez, Michael Rodriguez, Jr., Barbara Bezub, Luther Jones, and Latanya Mosley.

Mayor Erica Gillum called the meeting to order at 6:04 P.M. and Mayor Pro-Tem Lonnie Garfield gave the invocation.

The Pledge of Allegiance was given.

In Public Comments Cheryl Hardwick, invited all of council member and all of the City of Hempstead employees to an appreciation dinner on October 20, 2022 at Full Plate from 5:30 P.M. to 7:30 P.M.

Councilmember Cindy Pearce made a motion to appoint Sabrina Alvarez as City Secretary. Councilmember Mildred Jefferson seconded the motion and carried unanimously.

Mayor Erica Gillum administered the Oath to City Secretary Sabrina Alvarez.

A Resolution was introduced Councilmember Raul Villarreal. The motion was seconded Councilmember Mildred Jefferson and carried the following vote to wit:

AYES: Councilmember Cindy Pearce, Councilmember Raul Villarreal, Councilmember Chase Murray, Councilmember Mildred Jefferson, Mayor Pro-Tem Lonnie Garfield.

NOES: None

ABSENT: None

**RESOLUTION
NO. 22-034**

**HEMPSTEAD ECONOMIC DEVELOPMENT CORPORATION
4A AND 4B 2022-2023 FISCAL BUDGET**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS:

That the City Council approves and adopts the Hempstead Economic Development Corporation's 4A and 4B 2022-2023 Fiscal Budget attached as Exhibit "A".

PASSED AND APPROVED this the 19th day of September, A.D., 2022.

APPROVED:

/s/:Erica Gillum, Mayor

ATTEST:

/s/:Sabrina Alvarez, City Secretary

Public Hearing was opened at 6:09 P.M. for a discussion on an Ordinance of the City of Hempstead, Texas approving and adopting the City of Hempstead General Budget for the year 2022-2023; making appropriations for the City for such year as reflected in said Budget; establishing the procedure for intra-budget transfers; and containing other provisions relating to the subject. Councilmember Mildred Jefferson made a motion to discuss the 2022-2023 Budget. Mayor Pro-Tem Lonnie Garfield seconded the motion and it carried unanimously.

Public Hearing was closed at 6:12 P.M.

Consideration and action was taken on adopting an ad valorem tax rate of \$0.86288 on each \$100.00 of assessed valuation for debt services, with the following vote, to wit:

Mayor Pro-Tem Lonnie Garfield	AYE
Councilmember Raul Villarreal	AYE
Councilmember Cindy Pearce	AYE
Councilmember Chase Murray	AYE
Councilmember Mildred Jefferson	AYE

Consideration and action was taken on adopting an ad valorem tax rate of \$0.466285 on each 100.00 of assessed valuation for maintenance and operations to support the budget.

Mayor Pro-Tem Lonnie Garfield	AYE
Councilmember Raul Villarreal	AYE
Councilmember Cindy Pearce	AYE
Councilmember Chase Murray	AYE
Councilmember Mildred Jefferson	AYE

Discussion was held on an Ordinance adopting the General Budget for the City of Hempstead for the year 2022-2023 for the City of Hempstead; making appropriations for the City for such year as reflected in said Budget; and containing other provisions relating to the subject.

Alan Younts said this year budget contained transfer in and out expenditures that was never budgeted before. Councilmember Cindy Pearce thanked all the staff and department heads that helped with the budget. Councilmember Chase Murray asked to see salaries.

Action was taken on an Ordinance adopting the General Budget for the City of Hempstead for the year 2022-2023 for the City of Hempstead; making appropriations for the City for such year as reflected in said Budget; and containing other provisions relating to the subject.

Mayor Pro-Tem Lonnie Garfield	AYE
Councilmember Raul Villarreal	AYE
Councilmember Cindy Pearce	AYE
Councilmember Chase Murray	AYE
Councilmember Mildred Jefferson	AYE

**ORDINANCE
NO. 22-114**

AN ORDINANCE APPROVING AND ADOPTING THE CITY OF HEMPSTEAD, TEXAS, GENERAL BUDGET FOR THE YEAR 2022-2023; MAKING APPROPRIATIONS FOR THE CITY FOR SUCH YEAR AS REFLECTED IN SAID BUDGET; ESTABLISHING THE PROCEDURE FOR INTRA-BUDGET TRANSFERS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, within the time and in the manner required by law, the Mayor presented to City Council a proposed general budget of expenditures of the City of Hempstead for the year 2022-2023, the same being the fiscal year of the City; and

WHEREAS, after notice required by law, a public hearing on such general budget was held at the regular meeting place of the City Council at the Hempstead City Hall, 1125 Austin Street, Hempstead, Texas, on the 19th day of September, 2022, at which hearing all citizens and taxpayers of the City had the right to be present and to be heard and those who requested to be heard were heard; and

WHEREAS, the City Council has considered the proposed general budget and has made such changes therein as in its judgement were warranted by law and were in the best interest of the citizens and taxpayers of the City; and

WHEREAS, a copy of such general budget has been filed with the City Secretary and the City Council now desires to approve and adopt the same;

WHEREAS, the tax rate in the proposed general budget consists of two components, a tax rate of \$0.086288 on each \$100.00 of assessed valuation for debt service and a tax rate of \$0.466285 on each \$100.00 of assessed valuation to fund maintenance and operations expenditures; and

WHEREAS, by separate motions and roll call vote the City Council of the City of Hempstead, Texas, at a meeting held on the 19th day of September, 2022, said City Council approved separately the tax rate in support of the budget heretofore specified for each of said components;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct and incorporated herein for all purposes.

Section 2. The City Council hereby adopts a tax rate of \$0.086288 on each \$100.00 of assessed valuation for debt service in support of the Budget described in the preamble a copy of which is attached hereto and made a part of this Ordinance for all purposes. The City Council adopts a tax rate of \$0.466285 on each \$100.00 of assessed valuation for maintenance and operations in support of the Budget described in the preamble a copy of which is attached hereto and made part of this Ordinance for all purposes. The City Council adopts a total tax rate of \$0.552573 on each \$100.00 of assessed valuation in support of the Budget described in the preamble a copy of which is attached hereto and made a part of this Ordinance for all purposes.

Section 3. The City Council hereby approves and adopts the budget described in the preamble of this Ordinance, a copy of which is attached hereto and made a part of this Ordinance for all purposes and a copy of which is on file with the City Secretary. The City Secretary is hereby directed to place on said budget a cover sheet with the language required by Section 102.007 of the Texas Local Government Code. Such budget, as thus endorsed, shall be kept on file in the office of the City Secretary as a public record.

Section 4. In support of said budget and by virtue of the adoption thereof, including any and all changes adopted thereto, the several amounts specified for the various purposes named in said budget are hereby appropriated to and for such purposes.

Section 5. The City Council takes cognizance of the fact that in order to facilitate the operations of the City and its various departments and activities and to make adjustments occasioned by events transpiring during the year, some transfer may be necessary to and from

some accounts contained within the budget as originally adopted. Accordingly, should the Mayor from time to time determine that transfers are necessary from unexpected funds in one or more budget accounts to another budget account, and the same may be accomplished without creating a deficit in the requirements of any City Department or activity, he shall recommend such transfers to the City Council. Upon approval there by the City Council, an amendment sheet reflecting such transfer or transfers shall be attached to the budget as specifically adopted, whereupon the City Council shall treat such funds as if they had been thus budgeted in the first instance.

PASSED, APPROVED AND ADOPTED this the 19th day of September, A.D., 2022.

APPROVED:

/s/:Erica Gillum, Mayor

ATTEST:

/s/:Sabrina Alvarez, City Secretary

A motion was made by Councilmember Chase Murray to discuss and Ordinance adopting Electric Rates to be effective October 1, 2022; adopting Gas Rates to be effective October 1, 2022; adopting Water Rates to be effective October 1, 2022; adopting Sewer Rates to be effective October 1, 2022; adopting Solid Waste (Garbage) to be effective October 1, 2022 repealing all Council actions, ordinances, or parts of ordinances in conflict herewith; providing for severability; and providing an effective date. Councilmember Raul Villarreal seconded the motion and it carried unanimously.

Rates are going up \$3.00 on the base rate only.

Mayor Pro-Tem Lonnie Garfield made a motion to Ordinance adopting Electric Rates to be effective October 1, 2022; adopting Gas Rates to be effective October 1, 2022; adopting Water Rates to be effective October 1, 2022; adopting Sewer Rates to be effective October 1, 2022; adopting Solid Waste (Garbage) to be effective October 1, 2022 repealing all Council actions, ordinances, or parts of ordinances in conflict herewith; providing for severability; and providing an effective date. Councilmember Raul Villarreal seconded the motion and it carried unanimously.

An Ordinance was introduced by Mayor Pro-Tem Lonnie Garfield. The motion was seconded Councilmember Raul Villarreal and carried the following vote to wit:

AYES: Mayor Pro-Tem Lonnie Garfield, Councilmember Cindy Pearce, Councilmember Raul Villarreal, Councilmember Chase Murray, Councilmember Mildred Jefferson

NOES: None

ABSENT: None

**ORDINANCE
NO. 22-115**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS, ADOPTING ELECTRIC RATES TO BE EFFECTIVE OCTOBER 1, 2022; ADOPTING GAS RATES TO BE EFFECTIVE OCTOBER 1, 2022; ADOPTING WATER RATES TO BE EFFECTIVE OCTOBER 1 2022; ADOPTING SEWER RATES TO BE EFFECTIVE OCTOBER 1, 2022; ADOPTING SOLID WASTE (GARBAGE) RATES TO BE EFFECTIVE OCTOBER 1, 2022; REPEALING ALL COUNCIL ACTIONS, ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. The Electric utility rates effective October 1, 2022 are hereby adopted as set forth in exhibit **“I. Electric Utility Rates”** attached hereto and incorporated herein as though set forth in its entirety in this ordinance.

Section 2. The Gas utility rates effective October 1, 2022 are hereby adopted as set forth in exhibit **“II. Gas Utility Rates”** attached hereto and incorporated herein as though set forth in its entirety in this ordinance.

Section 3. The Water rates effective October 1, 2022 are hereby adopted as set forth in exhibit **“III. Water Rates”** attached hereto and incorporated herein as though set forth in its entirety in this ordinance.

Section 4. The Sewer rates effective October 1, 2022 are hereby adopted as set forth in exhibit **“IV. Sewer Rates”** attached and incorporated herein as though set forth in its entirety in this ordinance.

Section 5. The Solid Waste (Garbage) rates effective October 1, 2022 are hereby adopted as set forth in exhibit **“V. Solid Waste (Garbage) Rates”** attached hereto and incorporated herein as though set forth in its entirety in this ordinance.

Section 6. The rates and fees provided in this ordinance shall remain in place unless and until they are changed, in whole, or in part, by an ordinance passed and approved by the City Council.

Section 7. All City Council actions, ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, ae hereby repealed.

Section 8. In the event any phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Hempstead, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such parts thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 9. This ordinance shall become effective upon reading and adoption of this ordinance.

APPROVED, PASSED AN ADOPTED this the 19th day of September, A.D., 2022.

APPROVED:

/s/:Erica Gillum, Mayor

ATTEST:

/s/:Sabrina Alvarez, City Secretary

Councilmember Cindy Pearce made a motion to approve Minutes from August 15, 2022, September 6, 2022, September 13, 2022 & September 16, 2022.

A Resolution was introduced by Councilmember Cindy Pearce. The motion was seconded Mayor Pro-Tem and carried the following vote to wit:

AYES: Mayor Pro-Tem Lonnie Garfield, Councilmember Cindy Pearce, Councilmember Raul Villarreal, Councilmember Chase Murray, Councilmember Mildred Jefferson

NOES: None

ABSENT: None

**RESOLUTION
NO. 22-035**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS APPOINTING PERSONS TO THE PLANNING AND ZONING COMMISSION OF THE CITY OF HEMPSTEAD.

* * * * *

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS:

Section 1. That the following persons are appointed to the Planning and Zoning for the City of Hempstead:

Planning & Zoning:

Chris Whetzel

PASSED AND APPROVED this the 19th day of September, A.D., 2022.

APPROVED:

/s/:Erica Gillum, Mayor

ATTEST:

/s/:Sabrina Alvarez, City Secretary

A Resolution was introduced by Councilmember Mildred jefferson. The motion was seconded Councilmember Chase Murray and carried the following vote to wit:

AYES: Mayor Pro-Tem Lonnie Garfield, Councilmember Cindy Pearce, Councilmember Raul Villarreal, Councilmember Chase Murray, Councilmember Mildred Jefferson

NOES: None

ABSENT: None

**RESOLUTION
NO. 22-036**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS APPOINTING PERSONS TO THE BOARD OF DIRECTORS OF THE CITY OF HEMPSTEAD ECONOMIC DEVELOPMENT CORPORATION 4B

* * * * *

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS:

Section 1. That the following persons are appointed to Board of Directors for the City of Hempstead Economic Development Corporations:

4B Board:

Elizabeth Ayala

PASSED AND APPROVED this the 19th day of September, A.D., 2022.

APPROVED:

/s/:Erica Gillum, Mayor

ATTEST:

/s/:Sabrina Alvarez, City Secretary

A Resolution was introduced by Councilmember Cindy Pearce. The motion was seconded Mayor Pro-Tem and carried the following vote to wit:

AYES: Mayor Pro-Tem Lonnie Garfield, Councilmember Cindy Pearce, Councilmember Raul Villarreal, Councilmember Chase Murray, Councilmember Mildred Jefferson

NOES: None

ABSENT: None

Councilmember Chase Murray made a motion to discuss An Ordinance of the City of Hempstead, Texas amending Section 2.19 “Keeping Livestock Within City Limits” of Article 5 ”Livestock” of Chapter 2 “Animal Control” to Regulate and Limit livestock and fowl within the City limits; providing for a fine not to exceed \$2,000 per day the violation exists and civil penalty in the amount up to \$1000 per day the violation exists; providing for severability and repealing all ordinances and parts of ordinances in conflict herewith. Mayor Pro-Tem Lonnie Garfield seconded the motion and it carried unanimously. Councilmember Cindy Pearce stated that the 1 acre per large animal is more than fair, and she agreed it will be good.

An Ordinance was introduced by Mayor Pro-Tem Lonnie Garfield. The motion was seconded Councilmember Raul Villarreal and carried the following vote to wit:

AYES: Mayor Pro-Tem Lonnie Garfield, Councilmember Cindy Pearce, Councilmember Raul Villarreal, Councilmember Chase Murray, Councilmember Mildred Jefferson

NOES: None

ABSENT: None

ORDINANCE NO. 22-116

AN ORDINANCE OF THE CITY OF HEMPSTEAD, TEXAS AMENDING SECTION 2.19 “KEEPING LIVESTOCK WITHIN CITY LIMITS” OF ARTICLE 5 “LIVESTOCK” OF CHAPTER 2 “ANIMAL CONTROL” TO REGULATE AND LIMIT LIVESTOCK AND FOWL WITHIN THE CITY LIMITS; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A FINE NOT TO EXCEED \$2,000 PER DAY THE VIOLATION EXISTS AND A CIVIL PENALTY IN AN AMOUNT UP TO \$1,000 PER DAY THE VIOLATION EXISTS; PROVIDING FOR SEVERABILITY AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS:

Section 1. That Section 2.19 of Article 5 of Chapter 2 of the Code of Ordinances of the City of Hempstead, Texas is hereby amended to read as follows with additions being **bold and underlined** and deletions being ~~struck~~:

CHAPTER 2 ANIMAL CONTROL

Article V. Livestock

2.19 ~~Keeping~~ Limiting Livestock and Fowl Within the City Limits

A. Keeping Livestock and Fowl

A. It shall be unlawful for any person owning or having care, custody or control over livestock to keep or harbor any livestock within the city unless said livestock is kept in a pen, fence, corral or other enclosure.

B. It shall be unlawful for any person owning or having care, custody or control over livestock to keep or harbor any livestock within the City in a pen, fence, corral or other enclosure situated at any point closer than 25 feet to any residence, excluding the residence of the person

keeping or harboring the livestock

C. It shall be unlawful for any person owning or having care, custody or control over livestock to allow livestock to be or remain during the nighttime secured by a stake, or secured in any manner other than by enclosing such animal in a fence, pen, corral or barn sufficient and adequate to restrain such livestock.

D. It shall be unlawful for any person owning or having care, custody or control over livestock to tether, chain or fasten livestock in such a manner as to permit it to be upon any sidewalk, alley, park or street.

E. It shall be unlawful for any person owning or having care, custody or control over livestock to pasture or herd livestock on any sidewalk or in any street, alley, park or other public place.

F. It shall be unlawful for any person owning or having care, custody or control over livestock to stake or pasture or permit the tying, staking or pasturing of livestock upon any private property within the City without the consent of the owner or occupant of such property; or in such a way as to permit any livestock to trespass upon any private property.

G. It shall be unlawful for any person owning or having care, custody or control over livestock to tether, chain or fasten livestock in such a manner as to cause it injury or pain or not permit it to reach shelter, food and water.

H. It shall be unlawful for any person owning or having care, custody or control over livestock to have more than one livestock animal, as defined below, per contiguous acre of property owned by such person or entity.

No person or other entity shall raise, keep, breed or maintain any fowl within the City of Hempstead without first having complied with this section.

(1) Restricted to Personal Noncommercial Use. No person or other entity shall raise, keep, breed or maintain any fowl on a tract of land within the city except for personal non-commercial use.

(2) Number of Fowl and Containment. The number of fowl that will be permitted on a tract of land within the City is ten (10) chickens or other fowl. All chickens and other fowl shall be maintained in closed pens and shall not be allowed to wander about the premises.

B. Definitions

Livestock within the meaning of this ordinance shall include, regardless of age, sex or breed, horses and all equine species, including mules, donkeys and jackasses; cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species; pigs and all swine

species.

Fowl within the meaning of this ordinance shall include all birds, e.g., chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures and nondomestic feathered creatures, regardless of age or sex. Not included within the definition hereof are caged songbirds.

C. Future Farmers of America and 4-H Projects

Members of a chapter of the Future Farmers of America (FFA) or the 4H located within the City limits wishing to maintain livestock or fowl under the direction of the FFA or 4-H City may do so upon presentation of a waiver signed by all landowners within 200 feet of the pen, barn, stable or other area where such livestock or fowl will be maintained.

D. Public School District Property

The provisions of this section 2.19 do not apply to any agricultural related activity sponsored by and located on property owned by a Public School District.

E. Agricultural Tax-Exempt Land

The regulations contained in this section 2.19 do not apply to land that qualified and received an agricultural tax exemption under the provisions of Texas Tax Code, Section 23 Subchapter C or D prior to its annexation into the City until the land no longer qualifies for the agricultural tax exemption.

F. Areas of City Zoned Agricultural Residential "AR"

The regulations contained in this section 2.19 do not apply to property located within the City that is zoned Agricultural Residential "AR".

Section 2. All portions of the City of Hempstead Code of Ordinances not in conflict with this ordinance remain in effect.

Section 3. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Hempstead, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 4. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 5. This Ordinance shall become effective on adoption by the City of Hempstead City Council.

PASSED AND APPROVED this the 19th day of September 2022.

APPROVED:

/s/:Erica Gillum, Mayor

ATTEST:

/s/:Sabrina Alvarez, City Secretary

Attorney Charles Williams stated that on the Ordinance for the Symmetry Lawsuit it will reduce the liability and the this would be the first step, we would be responsible for 35% of lawyers' fees.

An Ordinance was introduced by Mayor Pro-Tem Lonnie Garfield. The motion was seconded Councilmember Mildred Jefferson and carried the following vote to wit:

AYES: Mayor Pro-Tem Lonnie Garfield, Councilmember Cindy Pearce, Councilmember Raul Villarreal, Councilmember Chase Murray, Councilmember Mildred Jefferson

NOES: None

ABSENT: None

ORDINANCE NO. 22-117

AN ORDINANCE APPROVING AND AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF HEMPSTEAD, TEXAS, AND THE POTTS LAW FIRM, L,L,P. FOR LITIGATION REPRESENTATION OF THE CITY AS A CO-PLAINTIFF IN A FEDERAL CLASS ACTION- TO WIT- CERTIFIED ROSES INC. V. SYMMETRY ENERGY SOLUTIONS LLC, NO. 2:21-CV-00133, FILED IN UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS, MARSHALL DIVISION; MAKING CERTAIN FINDINGS; PROVIDING FOR, AND LEVYING AN AD VALOREM TAX AND ESTABLISHING A SINKING FUND TO PAY THE

POTTS LAW FIRM, LLP TO PAY THE LEGAL FEES AND EXPENSES IN THE CONTINGENT EVENT OF CERTAIN RELIEF OBTAINED BY SUCH FIRM FOR THE CITY AS SET FORTH IN THE AGREEMENT, PROVIDING A MAXIMUM CONTRACT AMOUNT FOR THE RECOVERY OF FEES; PROVIDING A MAXIMUM CONTRACT AMOUNT; FINDING THAT PURSUANT TO TEXAS GOVERNMENT CODE SECTION 2254.1036, WRITTEN NOTICE WAS GIVEN TO THE PUBLIC BY THE POSTING OF THIS ORDINANCE AND CHAPTER 551, GOVERNMENT CODE

Pursuant to Texas Government Code Section 2254.1036 Government Code, the following written notice to the public is given by the City of Hempstead of the adoption of an Ordinance to approve engagement of special legal counsel as follows:

THE CITY OF HEMPSTEAD, TEXAS, DESIRES TO ENGAGE SPECIAL LEGAL COUNSEL TO REPRESENT THE CITY IN THE MATTER RELATED TO DECLARATORY AND OTHER RELIEF IN CONNECTION WITH THE CITY'S PARTICIPATION AS A CO-PLAINTIFF IN A FEDERAL CLASS ACTION *CERTIFIED ROSES INC. V. SYMMETRY ENERGY SOLUTIONS LLC, NO. 2:21-CV-00133*, FILED IN UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS, MARSHALL DIVISION, BY A UNIQUE GROUP OF PARTIES, LOCATED IN MULTIPLE STATES, CHALLENGING THE VALIDITY AND AMOUNT OF FEES AND CHARGES UNDER CONTRACTS WITH SYMMETRY ENERGY SOLUTIONS TO PROVIDE NATURAL GAS IN FEBRUARY 2021 (THE "LITIGATION"). THE CITY IS A MEMBER OF POTENTIAL PARTIES OF SUCH CLASS ACTION IN THAT IT FEES AND CHARGES FOR NATURAL GAS RECEIVED FROM SYMMETRY ENERGY SOLUTIONS FOR FEBRUARY 2021

THE LEGAL SERVICES REQUIRED TO REPRESENT THE CITY REQUIRES SPECIALIZED EXPERIENCE IN ENERGY AND CLASS ACTION LITIGATION AND THEREFORE CANNOT BE ADEQUATELY PERFORMED BY THE ATTORNEYS AND SUPPORTING PERSONNEL OF THE CITY. THE ENGAGEMENT OF SPECIAL LEGAL COUNSEL CONSTITUTES A UNIQUE CIRCUMSTANCE AND IS AUTHORIZED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS.

THE PROPOSED SPECIAL LITIGATION COUNSEL, THE POTTS LAW FIRM, LLP (THE "FIRM") IS A LAW FIRM THAT INCLUDES A NATIONAL COMPLEX LITIGATION PRACTICE AND HAS THE NECESSARY COMPETENCE, QUALIFICATION AND EXPERIENCE TO SERVE AS

SPECIAL COMPLEX LITIGATION COUNSEL FOR AN CLASS ACTION ENERGY CONTRACTUAL DISPUTE ON BEHALF OF THE CITY.

THE ENGAGEMENT OF THE FIRM IS IN THE BEST INTEREST OF THE CITY, SINCE THE LEGAL SERVICES REQUESTED REQUIRE SPECIALIZED EXPERIENCE IN FEDERAL CLASS ACTION ENERGY LITIGATION LAW AND THEREFORE CANNOT BE ADEQUATELY PERFORMED BY THE ATTORNEYS AND SUPPORTING PERSONNEL OF THE CITY. FURTHERMORE, SUCH LEGAL SERVICES CANNOT BE REASONABLY OBTAINED FROM ATTORNEYS IN PRIVATE PRACTICE FOR THE PAYMENT OF HOURLY FEES WITHOUT CONTINGENCY BECAUSE THE CITY WILL NOT BE OBLIGATED TO PAY ANY LEGAL FEES UNLESS THE CLASS ACTION IS SUCCESSFULLY RESOLVED BY A REDUCTION OF THE UTILITY FEES AND CHARGES AND/OR DAMAGES FOR THE FEBRUARY 2021 NATURAL GAS PROVIDED BY SYMMETRY ENERGY SOLUTIONS.

WHEREAS, after exercising due diligence and having provided adequate notice as required by Sec. 2254.1036 of the Texas Government Code, the City Council of the City of Hempstead, Texas hereby finds and determines the following:

1. The Potts Law Firm is fully qualified to provide this representation in that the Potts Law Firm possesses legal expertise that the City of Hempstead does not currently possess in the specialized legal services required by this agreement;
2. The Potts Law Firm is experienced in the handling cases and issues that the City of Hempstead is currently facing. The City of Hempstead does not have any previous experience with the Potts law firm or any of its lawyers but has performed due diligence in seeking an attorney for the City that will protect and defend the rights of the citizens of Hempstead;
3. The Potts Law Firm will be compensated on a contingent fee basis as provided in the amount of at the greater of (a) 35% of the gross monetary amount reduced on City's pending utility bill from Symmetry Energy Solutions after the effective date of this contract; or (b) 35% of gross damages. A contract to pay inside or outside attorneys on an ongoing hourly basis, without regard to the outcome, would represent an additional cost to the City of Hempstead that is avoided by utilizing the proposed contingent fee structure;
4. Entering into the proposed agreement is in the best interests of the residents of the City of Hempstead because City of Hempstead's interests will be professionally and competently protected without the additional costs to the City of Hempstead of

employing in-house personnel or paying outside counsel on an hourly fee basis, which would otherwise be required;

5. There is a substantial need for the legal services;
6. The legal services to be provided by the Potts Law Firm cannot be adequately performed by the attorneys and supporting personnel of the City of Hempstead;
7. The legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained, and because City of Hempstead entity does not have appropriated funds available to pay the estimated amounts required under a contract providing only for the payment of hourly fees.
8. The City Council finds and declares that the City of Hempstead hereby does not have appropriated funds for the payment of the February 2021 invoice for the payment of the pending utility bill with Symmetry Energy Solutions (the "Invoice.")
9. By its terms, until approval by the City Council, and execution by the Mayor, the contract is subject to the required review and approval by the Texas Attorney General, and that no legal services will be or have been performed under the contract. No legal services have been performed under the contract, and none will be performed unless and until the contract is approved pursuant to Tex. Gov't Code § 2254(b)(c);
9. The City Council of the City of Hempstead, Texas, under the Texas Constitution, is required, at the time it enters into and authorizes the Agreement to make provision for the payment of the City's contingent obligation to pay the Potts Law Firm not more than 35% of gross monetary amount reduced on the City's pending Invoice.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS:

Section 1. The City Council finds and declares that the written notice of the meeting of the City Council of the City of Hempstead, Texas required by Section 551.041, Government Code, and, additionally, Section 2254.1036, Government Code, for an open meeting of the City Council has been posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting as required by Chapter 551, Government Code, as certified and described by the City Secretary in her Certificate of Posting of Notice (the "Notice"), attached hereto as Exhibit A.

Section 2. Additionally, the City Council hereby finds, ratifies, adopts and declares that:

- a. The findings, notice and declaration contained in the recitals in the preamble to this Ordinance, as well as the recitals included in the Notice posted by the City Secretary, in Exhibit A, are found by the City Council to be true and correct.
- b. That at the same time of posting the written notice required by Section 551.041, Government Code, for an open meeting of the City Council, there was included and posted, in the Notice, the following, additional matters required by Section 2254.1036 (a), Government Code, related to the firm selected under Section 2254.1032, Government Code, below stating:
 - (A) the reasons for pursuing the matter that is the subject of the legal services for which the attorney or law firm would be retained and the desired outcome of pursuing the matter;
 - (B) the competence, qualifications, and experience demonstrated by the attorney or law firm selected;
 - (C) the nature of any relationship, including the beginning of the relationship, between the political subdivision or governing body and the attorney or law firm;
 - (D) the reasons the legal services cannot be adequately performed by the attorneys and supporting personnel of the political subdivision;
 - (E) the reasons the legal services cannot be reasonably obtained from attorneys in private practice under a contract providing for the payment of hourly fees without contingency; and
 - (F) the reasons entering into a contingent fee contract for legal services is in the best interest of the residents of the political subdivision.

Section 3. The Hempstead City Council expressly approves and authorizes the Mayor to execute, and the City Secretary to attest, the contingent fee agreement with the Potts Law Firm (the “Agreement”) in accordance with the terms and conditions set forth therein, a copy of which is attached hereto as Exhibit B and incorporated herein, for all purposes.

The Agreement is effective and enforceable only after review and approval by the Office of the Attorney General of Texas, and that no legal services will be performed under the contract unless and until the contract is approved pursuant to Tex. Gov’t. Code § 2254(b)-(c);

Section 3. The City Council finds and declares that this Ordinance is adopted in an open meeting called for the purpose of approving and authorizing the Agreement, after due consideration of the matters listed in paragraphs A through F of Section 2b of this Ordinance, as well as the recitals in the preamble to this Ordinance and the Notice. The City Secretary is directed to prepare a certified copy of the proceedings of the adoption and approval of this Ordinance among the Official Records

of the City and may submit a copy thereof to the Attorney General of Texas and such other persons as the Mayor may direct.

Section 5. The Mayor is authorized to execute and submit the Agreement to the Attorney General of Texas for review and approval under the provisions of Subchapter C, Chapter 2254, Government Code.

Section 6. The City Council, pursuant to Section III, CONTINGENT FEE ARRANGEMENT, (hereafter "Section III") of the Agreement agrees that, in the event that the anticipated litigation in which the Potts Law Firm represents the City of Hempstead is not certified as a class action, and the Potts Law firm obtains a reduction of the gross monetary amount on the City's pending utility bill from Symmetry Energy Solutions, the City agrees to pay the Potts Law firm the greater of (a) 35% of the gross monetary amount reduced on Client's pending utility bill from Symmetry Energy Solutions after the effective date of this contract or (b) 35% of City's gross damages, provided, further that in the event there is no recovery, the City owes the Potts Law Firm nothing..

In the event the anticipated litigation is certified as a class action, pursuant to Section III, the Potts Law Firm agrees to petition the Court to recover the City's share of the Potts Law Firm attorney's fees and expenses provided, however, that in no event shall the City's share of the Potts Law Firm attorneys' fees exceed the greater of (a) 35% of the gross monetary amount reduced on City's pending utility bill from Symmetry Energy Solutions after the effective date of this contract or (b) 35% of City's gross damages, provided, further that in the event there is no recovery, the City owes the Potts Law Firm nothing;

The City does not have appropriated funds for the payment of the February 2021 invoice for the payment of the pending utility bill from Symmetry Energy Solutions. Accordingly, in the event that (1) the anticipated litigation is not certified as a class action, or (2) in the event the anticipated litigation is certified as a class action, and the City is not awarded its attorney's fees, and the Potts Law Firm obtains a reduction of the gross monetary amount of the City's pending utility bill from Symmetry, the City Council hereby provides for the following contingent payment obligation to the Potts Law Firm, under the terms of Section III, as follows:

In order to pay the above described contingent Potts Law Firm legal fees (the "Reduced Bill Payment") and in the event that (1) the anticipated litigation is not certified as a class action or (2) in the event the anticipated litigation is certified as a class action, and the City is not awarded its attorney's fees, the City Council covenants and agrees that the City shall compute and ascertain a rate and amount of ad valorem tax that will be sufficient to raise and produce the funds required to pay the interest on the Reduced Bill Payment as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Payment due under Section III of the Contract, as such principal matures (but never less than 2% of the original principal amount of the total contract payment as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of the City, with full allowance being made for tax delinquencies and the cost of tax collection.

Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property within the City's jurisdiction for each year while any Reduced Bill Payment under the Contract is outstanding and unpaid; and said tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund (defined below). Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Reduced Bill Payment, as such interest comes due and such principal matures, are hereby pledged to such payment, within the limits prescribed by law. The amount of taxes to be levied annually for the payment of principal of and interest on the Reduced Bill Payment shall be determined and accomplished in the following manner:

- (a) The City's annual budget, beginning the year in which this Agreement becomes effective, shall reflect (i) the amount of principal and interest on the Reduced Bill Payment to become due in the next succeeding City Fiscal Year, and (ii) the amount of ad valorem tax revenues or other lawfully available funds estimated and budgeted to be available for the payment of the principal of and interest on the Reduced Bill Payment during the next succeeding City Fiscal Year.
- (b) The amount required to be provided each Fiscal Year throughout the duration of this Agreement shall be the amount, if any, by which the principal and interest to be paid on the Reduced Bill Payment in the next succeeding City Fiscal Year exceeds the sum of (i) the amount of pledged revenues shown to be on deposit in the Interest and Sinking Fund (after giving effect to any payments required to be made during the remainder of the then current Fiscal Year) at the time the annual budget is prepared, and (ii) the pledged revenues or other lawfully available funds shown to be budgeted and available (subject to the requirements of any prior lien obligations) for payment of said debt service requirements.
- (c) The City shall budget an amount of ad valorem tax revenue sufficient to pay the Reduced Bill Payment. Following the final approval of the annual City budget, the City Council shall levy an ad valorem tax at a rate sufficient to produce taxes in the amount determined in paragraph (b) above, to be utilized for purposes of paying the principal of, and interest on the Reduced Bill Payment in the next succeeding City Fiscal Year.

PASSED AND APPROVED in the City of Hempstead, Texas this 19th day of September, 2022.

APPROVED:

/s/:Erica Gillum, Mayor

ATTEST:

/s/:Sabrina Alvarez, City Secretary

Councilmember Cindy Pearce made a motion to approve payment of current bills. The motion was seconded by Councilmember Raul Villarreal and carried unanimously.

On Mayor's reports Sales Tax is up 15.57% from last month. She also wanted to thank everyone's participation on working so hard on the 2022-2023 Budget. She also stated that she will be giving a monthly update on Code Enforcement and what all they given citations and who all complied. On August 15th – 14 Citations were given and/or resolved; August 19 – 9 problems were resolved. On September 8 – 5 removals of chickens and furniture were cleaned up and removed.

There being no further business, Mayor Pro-Tem Lonnie Garfield made a motion to adjourn the meeting at 6:43 P.M. Councilmember Mildred Jefferson seconded the motion, and carried unanimously

PASSED AND APPROVED this the 17th day of October, A.D., 2022.

APPROVED:

/s/:Erica Gillum, Mayor

ATTEST:

/s/:Sabrina Alvarez, City Secretary