NOTICE OF A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF HEMPSTEAD

PLEASE NOTE:

Public comments and matters from the floor are limited to 3 minutes per person. Allotted minutes cannot be transferred to other individuals.

If you would like to request to speak, please do so in advance of the meeting by filling out a Request to Address Council form available upon entrance to the meeting.

Please silence all cell phones and electronic devices.

Notice is hereby given that a Regular Meeting of the City Council of the City of Hempstead will be held on **Monday, the 5**th **day of February, A.D., 2024 at 6:00 P.M.** at the **Hempstead City Hall, 1125 Austin Street, Hempstead, Texas**, at which time the following subjects will be considered, to-wit:

- 1. Call to order and invocation.
- 2. Pledge of Allegiance.
- 3. Public Comments.
- 4. Administer Oath of Office to Municipal Court Judge Sydney Joe Hester.
- 5. Consideration and action on an Ordinance of the City of Hempstead, Texas for holding of a General Election to be held on May 4, 2024, for the purpose of electing a Mayor (1) and two (2) Councilmembers; Providing for a Joint Election pursuant to an agreement with Waller County; Providing for the designation of polling places and appointing election judges and other polling places and appointing election judges and other election officials for such election; providing for early voting; directing the giving of notice of such election; and providing details relating to the holding of such election.
- 6. Consideration and action on an Ordinance of the City of Hempstead, Texas providing for the holding of a Special Election to be held May 4, 2024, for the purpose of submitting to the qualified voters of the city certain proposed amendments to the existing charter of the city; stating the proposed amendments to the city charter to be voted upon at said election; and making provisions for the holding of such election.
- 7. Discussion, consideration, and action on a Resolution of the City Council of the City of Hempstead selecting Engineering/Architectural service provider to complete application and project implementation for the Hazard Mitigation Assistance (HMA) funding administered by the Texas Division of Emergency Management and/or Texas Water Development Board.
- 8. Consideration and action on a Resolution of the City Council of the City of Hempstead, setting a date, time, and place for a Public Hearing on the proposed annexation of an approximately thirty-three-acre tract of the land by the city; providing a description of such tract of land; providing a proposed service plan and containing other provisions relating to the subject matter.
- 9. Consideration and action on an Ordinance of the City Council of the City of Hempstead, Texas amending Ordinance No. 23-112 which will amend the city budget

- for the 2023-2024 fiscal year and authorizing amended revenues and expenditures as therein provided.
- 10. Consideration and action on approving Tax Abatement Policy for the City of Hempstead.
- 11. Consideration and action on approving the Hempstead Economic Development Corporation to go forward with securing a realtor for possible relocation of its offices and other city offices (Building & Finance Director) and uses.
- 12. Presentations.
 - A. Mayor's Reports
 - 1. Splash Pad
 - 2. Banners
 - 3. Digital Sign
 - 4. Elected Officials' and Staff Education
 - 5. Street Projects
 - 6. Employee of the Month January-Sabrina Alvarez
 - 7. Introducing EDC Director-Dr. Ramiro Bautista
 - 8. Explanation of the Community Advisory Board
 - 9. Texas Youth Diversion and Early Intervention Act/HB 3186
 - B. Councilmember Reports:
 - 1. Nora Hodges-Report from Olson & Olson Seminar I attended on 1/25/24 in Stafford, TX. Announce Valetine's Day Appreciation Luncheon on February 14, 2024, from 11AM-2:00 PM.
- 13. Adjourn City Council Meeting.

The City Council of the City of Hempstead reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below authorized by <u>Texas Government Code</u>, Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), and 551.086 (Certain Public Power Utilities: Competitive Matters). Council may act in Open Session on any item listed for Executive Session.

Dated this the 2nd day of February, A.D., 2024.

ву: 💢

Sabrina Alvarez, City Secretary

I, the undersigned authority, do hereby certify that the above Notice of a Regular Meeting of the governing body of the City of Hempstead is a true and correct copy of said Notice, and that a true and correct copy of said Notice was posted on the City Hall bulletin board and entrances to City Hall, in the City Hall of said City of Hempstead, Texas, a place convenient and readily accessible to the general public at all times, and that said Notice was posted on February 2nd, 2024 at 1:30 P.M. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Dated this the 2nd day of February, A.D., 2024.

By:

Sabrina Alvarez, City Secretary

PUBLIC PARTICIPATION BY TELEPHONE

The City of Hempstead City Council **may** conduct the meeting scheduled at **6:00 P.M. on Monday the 5**th **day of February 2024 at City Hall, 1125 Austin Street, Hempstead, Texas.** The public will be permitted to offer public comments telephonically as provided by the agenda and as permitted by the presiding officer during the meeting. A recording of the telephonic meeting will be made and will be available to the public upon written request.

The toll-free dial-in number to participate in the meeting telephonically is:

1-346-248-7799; Access Code 989-478-2100

IF CITY COUNCIL MEMBERS ARE GOING TO APPEAR BY VIDEOCONFERENCE A QUORUM OF COUNCILMEMBERS MUST BE PRESENT AT THE LOCATION.

NOTICE OF MEETING BY VIDEO CONFERENCE

The City of Hempstead City Council may conduct the meeting scheduled at 6:00 P.M. on Monday, the 5th day of February 2024 at City Hall, 1125 Austin Street, Hempstead, Texas by videoconference in addition to allowing in person attendance. A quorum of the City Council will be physically present at the Hempstead City Hall, 1125 Austin Street, Hempstead. The public may participate in the City Council Meeting by using the following information:

1-346-248-7799, Access Code 979-478-2100



1125 Austin Street • Hempstead, Texas 77445 • Tel: 979-826-2486 • Fax: 979-826-6703
ORDINANCE
NO. 24-

AN ORDINANCE OF THE CITY OF HEMPSTEAD, TEXAS FOR THE HOLDING OF A GENERAL ELECTION TO BE HELD ON MAY 4, 2024, FOR THE PURPOSE OF ELECTING A MAYOR (1) AND TWO (2) COUNCILMEMBERS; PROVIDING FOR A JOINT ELECTION PURSUANT TO AN AGREEMENT WITH WALLER COUNTY; PROVIDING FOR THE DESIGNATION OF POLLING PLACES AND APPOINTING ELECTION JUDGES AND OTHER ELECTION OFFICIALS FOR SUCH ELECTION; PROVIDING FOR EARLY VOTING; DIRECTING THE GIVING OF NOTICE OF SUCH ELECTION; AND PROVIDING DETAILS RELATING TO THE HOLDING OF SUCH ELECTION.

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

<u>Section 1</u>. In accordance with the General Laws and Constitution of the State of Texas, a Joint General Municipal Election is hereby called and ordered to be held for the first Saturday in May, 2024, same being the 4th day of said month, at which election all qualified voters of the City may vote for the purpose of electing one Mayor (1) and two (2) Councilmembers:

Mayor

Councilmember, Position 1

Councilmember, Position 2

<u>Section 2</u>. The general election shall be conducted as a joint election by agreement between Waller County and the City pursuant to the agreement attached hereto as Exhibit "A" and incorporated herein for all purposes.

Section 3. No person's name shall be placed upon the official ballot as a candidate for any of the above mentioned positions unless such person has filed his or her sworn application as provided by Section 141.031 of the TEXAS ELECTION CODE, with the City Secretary of this City at the City of Hempstead Municipal Building (City Hall), 1125 Austin Street, Hempstead, Texas 77445. The City Secretary shall note on the face of each such application the date and time of its filing. Such application shall include the office the candidate is seeking and the number of the position the candidate is seeking.

- <u>Section 4.</u> The present boundaries of the City constitute one election precinct. The polls shall be open for voting from seven o'clock (7:00) A.M. until seven o'clock (7:00) P.M. at polling places to be determined by the Waller County Elections Administrator.
- Section 5. The Presiding Judge for the conduct of the election shall be appointed by the Commissioners' Court of Waller County, Texas and is hereby authorized to appoint such alternates and clerks as may be necessary for the conduct of the election. The City Secretary is hereby authorized and directed to provide a copy of this Ordinance to each judge as written notice of their appointment as required by Section 32.009 of the TEXAS ELECTION CODE. The appointment shall be for the election scheduled to be held May 6, 2023 and shall commence as of the date of appointment by the Commissioners' Court of Waller County lasting for the duration of said election.
- Section 6. The Presiding Judge shall have the authority to appoint no more than five (5) clerks to assist in the holding of such election, but in no event shall the Presiding Judge appoint less than two (2) clerks. Unless otherwise required to act in the capacity of Presiding Judge, the Alternate Presiding Judge shall also serve as clerk of the election. Compensation for election judges and clerks shall be established by the Commissioners' Court of Waller County, Texas, as permitted under Section 32.091, et seq., Texas Election Code. Additional compensation, as provided under Section 32.092, et seq., Texas Election Code, is hereby established at the maximum amount permitted by said Section.
- Section 7. Pursuant to Section 83.005, TEXAS ELECTION CODE, Christy Easton, Waller County Elections Administrator, is hereby appointed clerk for early voting; the appointment of a deputy clerk or clerks for early voting by the Waller County Elections Administrator shall be in accordance with Section 83.031 *et seq*. of the TEXAS ELECTION CODE. Early voting will be conducted on the dates, times and locations appointed by order of the Commissioners' Court of Waller County, Texas. Said clerks shall not permit anyone to vote early by personal appearance on any day that is not a regular working day for the clerk's office and, under no circumstance, shall they permit anyone to vote early by personal appearance at any time when such office is not open to the public. The early voting clerk, in accordance with the provision of the TEXAS ELECTION CODE, shall maintain a roster listing of each person who votes early by personal appearance and each person to whom a ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.
- Section 8. The Presiding Judge of the Early Ballot Board shall be appointed by order of the Commissioners' Court of Waller County, Texas. In accordance with Section 87.001 et seq., TEXAS ELECTION CODE, said Presiding Judge shall appoint at least two (2) other members to said Board, and shall process early voting results in accordance with said TEXAS ELECTION CODE.
- Section 9. All ballots shall be prepared in accordance with the TEXAS ELECTION CODE. All expenditures necessary for the conduct of the election and the purchase or rental of

materials or equipment therefore is hereby authorized. The Waller County Elections Administrator is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

<u>Section 10</u>. The candidates receiving the highest number of votes in each of the positions to be filled in the General Election shall be declared elected to such positions.

Section 11. The order in which the names of the candidates are to be printed on the ballot for the Special and General election shall be determined by a drawing by the City Secretary, as provided by Section 52.094 of the TEXAS ELECTION CODE. The City Secretary shall post a notice in her office of the date, hour, and place of such drawing. Such notice shall remain posted continuously for seventy-two (72) hours immediately preceding the scheduled time of the drawing, and personal notice shall also be given to any candidate who makes written request for such notice and furnishes to the City Secretary a self-addressed, stamped envelope. Each candidate involved in the drawing, or a designated representative, shall have a right to be present and observe the drawing.

<u>Section 12.</u> Notice of this election shall be given in accordance with the provisions of the TEXAS ELECTION CODE and returns of such notice shall be made as provided for in said Code. The County Elections Officer shall issue all necessary orders and writs for such elections, and returns of such election shall be made to the City Secretary immediately after the closing of the polls.

Section 13. Such election shall be held in accordance with the TEXAS ELECTION CODE and the Federal Voting Rights Act of 1965, as amended.

PASSED, APPROVED, AND ADOPTED this the 5th day of February, A.D., 2024.

	APPROVED:	
	Erica Gillum, Mayor	
ATTEST:		
Sabrina Alvarez, City Secretary		

JOINT ELECTION AGREEMENT WITH COUNTY



1125 Austin Street • Hempstead, Texas 77445 • Tel: 979-826-2486 • Fax: 979-826-6703

ORDINANCE NO. 24-

AN ORDINANCE OF THE CITY OF HEMPSTEAD, TEXAS, PROVIDING FOR THE HOLDING OF A SPECIAL ELECTION TO BE HELD MAY 4, 2024, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY CERTAIN PROPOSED AMENDMENTS TO THE EXISTING CITY CHARTER OF THE CITY; STATING THE PROPOSED AMENDMENTS TO THE CITY CHARTER TO BE VOTED UPON AT SAID ELECTION; PROVIDING A FORM OF THE BALLOT AT SUCH ELECTION; AND MAKING PROVISIONS FOR THE HOLDING OF SUCH ELECTION.

* * * * *

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

Section 1. In accordance with the City Charter, the Laws and Constitution of the State of Texas, a Special Municipal Election is hereby called and ordered for the second Saturday in May, 2024, the same being the 4th day of said month, at which election all qualified voters of the City may vote for the purpose of adopting certain proposed amendments to the City's Charter. Such proposed amendments are as follows:

PROPOSED AMENDMENT NO. 1.

Section 1 of Article III of the Charter of the City of Hempstead, Texas, shall hereafter read as follows:

Section 1. OFFICE CREATED: QUALIFICATIONS: TERM

There is hereby established the Office of Mayor of the City, the incumbent of which shall be a citizen of the United States, at least eighteen (18) years of age, a qualified voter,

residing within the City for at least twelve (12) months prior to his election. The Mayor shall be elected by a majority vote of the qualified voters in the City; he/she shall hold his office for four (4) years and/or until his/her successor is elected and qualified, unless sooner removed as provided by this Article. The Mayor shall be elected in even numbered years. The City, as referred to herein, shall be deemed to include the City and any and all territory at any time annexed to the City of Hempstead.

- a. Head of City Government The Mayor shall be the Chief Administrative and Executive Officer of the City. The Mayor shall devote his/her best efforts to and shall be responsible for the proper administration of its affairs. The Mayor shall preside at all meetings of the Council and shall be recognized as the head of the City Government for all ceremonial purposes, for the purpose of receiving civil process, for emergency purposes, and for military purposes.
- b. Disability of the Mayor If for any reason the Mayor fails, is unable or refuses to perform the duties of his office, the Mayor Pro Tern shall act as Mayor during such absence or disability shall possess all of the powers and perform all of the duties of the Mayor and is entitled to receive the fees and compensation prescribed for the Mayor.
- c. Section 2 of Article VI, and all other sections or parts of sections of the existing charter of the City of Hempstead in conflict with this Section shall be and are hereby repealed.

PROPOSED AMENDMENT NO. 2.

Sections 1 and 2 of Article IV of the Charter of the City of Hempstead, Texas, shall hereafter read as follows:

THE COUNCIL

Section 1. OFFICE CREATED: QUALIFICATIONS

There is hereby established a Council of the City. The City, as referred to herein, shall be deemed to include the City, and any and all territory at any time annexed to the City. This Council shall consist of five (5) Councilmembers elected from the City At Large. A candidate for Councilmember shall reside within the City. The candidate for Councilmember must be a citizen of the United States, at least eighteen (18) years of age,

a qualified voter residing within the City for at least twelve (12) months prior to his/her election.

Section 2. TERM

a. The Councilmembers shall hereafter be elected to the following terms of office:

Councilmember, Position 1 shall be elected to this position at the general election beginning with the election in 2024 and shall serve for a term of three years. The Candidate receiving the majority of votes cast for this position, and that is otherwise qualified, is elected.

Councilmember, Position 2 shall be elected to this position at the general election beginning with the election in 2024 and shall serve for a term of three years. The Candidate receiving the majority of votes cast for this position, and that is otherwise qualified, is elected.

Councilmember, Position 3 shall be elected to this position at the general election beginning with the election in 2026 and shall serve for a term of three years. The Candidate receiving the majority of votes cast for this position, and that is otherwise qualified, is elected.

Councilmember, Position 4 shall be elected to this position at the general election beginning with the election in 2026 and shall serve for a term of three years. The Candidate receiving the majority of votes cast for this position, and that is otherwise qualified, is elected.

Councilmember, Position 5 shall be elected to this position at the general election beginning with the election in 2026 and shall serve for a term of three years. The Candidate receiving the majority of votes cast for this position, and that is otherwise qualified, is elected.

Councilmembers holding office in Positions 3, 4 and 5, at the time of the adoption of this amendment to Section 2, Article IV of the Charter shall hold office until the expiration of their current term of office in 2025.

b. Section 2 of Article VI, and all other sections or parts of sections of the existing charter of the City of Hempstead in conflict with this Section shall be and are hereby repealed

Section 2. The ballot for the Special Election on said amendments to the Charter shall conform to the provisions of the TEXAS ELECTION CODE, as amended, and on such ballot shall appear propositions corresponding to the proposed Charter amendments set forth above in Section 1, with the provision on such ballot permitting voters to vote "For" or "Against" on each proposition. Each proposition shall provide as follows:

Proposition No. 1

Shall Section 1 of Article III of the Charter of the City of Hempstead, which establishes the Office of the Mayor be amended to provide for a four year term of office for the Mayor of the City of Hempstead, Texas, and repealing any conflicting section of the existing charter of the City of Hempstead.

Proposition No. 2

Shall Section 1 of Article IV of the Charter of the City of Hempstead, which establishes the City Council be amended to provide for a three year term of office for a Councilmember of the City of Hempstead, Texas, and repealing any conflicting section of the existing charter of the City of Hempstead.

Section 3. The present boundaries of the City of Hempstead shall constitute one election precinct. The polls shall be open Saturday, May 4 for voting from seven o'clock (7:00) A.M. until seven o'clock (7:00) P.M. at the following polling place:

City Hall 1125 Austin Street Hempstead, TX 77445

Section 5. Election Officers. The presiding judge and alternate judges will be appointed pursuant to the agreement to conduct elections between Waller County and the City which is approved and attached hereto for all purposes Exhibit A. An Early Voting Board will be approved by and in accordance with such Agreement. A Central Counting Station shall be established in accordance with the conduct of elections agreement.

Section 6. A direct recording electronic voting machine shall be used for early voting and voting on Election Day, in accordance with the TEXAS ELECTION CODE, as amended. All expenditures necessary for the conduct of the election, the purchase of materials and the employment of election officials is hereby authorized.

Section 7. This special Charter election is being ordered and held concurrently with the City of Hempstead, Texas General Election, and the election may also be a joint election with other entities pursuant to the Agreement with Waller County authorized in Section 5 hereof.

Section 8. Notice of this election shall be given in accordance with the provisions of the TEXAS ELECTION CODE, as amended, and the Federal Voting Rights Act of 1965, as amended.

Section 9. The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct such election.

Section 10. The City Secretary is hereby authorized and directed to provide a copy of this Ordinance to each Judge as written appointment as required by Section 32.009 of the TEXAS ELECTION CODE, as amended.

PASSED, APPROVED AND ADOPTED this the _	day of	, 2024.
Approved		
Erica Gillum		
Mayor		
City of Hempstead, Texas		
Attest		
Sabrina Alvarez		
City Secretary		

City of Hempstead, Texas



1125 Austin Street • Hempstead, Texas 77445 • Tel: 979-826-2486 • Fax: 979-826-6703

RESOLUTION 24-____

A RESOLUTION OF CITY OF HEMPSTEAD, TEXAS, AUTHORIZING PROFESSIONAL SERVICE PROVIDER(S) SELECTION FOR HAZARD MITIGATION ASSISTANCE PROGRAM(S) FUNDED THROUGH THE TEXAS DIVISION OF EMERGENCY MANAGEMENT (TDEM) AND/OR TEXAS WATER DEVELOPMENT BOARD (TWDB).

WHEREAS, participation in Hazard Mitigation Assistance program(s) requires implementation by professionals experienced in the administration of federally-funded projects;

WHEREAS, in order to identify qualified and responsive providers for these services a Request for Qualifications (RFQ) process for Engineering/Architectural services has been completed in accordance with the federal requirements;

WHEREAS, the Statement of Qualifications received by the due date have been reviewed to determine the most qualified and responsive providers for each professional service giving consideration to ability to perform successfully under the terms and conditions of the proposed procurement, integrity, compliance with public policy, record of past performance, and financial and technical resources.

NOW, THEREFORE, BE IT RESOLVED:

Section 1.	ThatBleyl Engineering is selected to provide application and project-related Engineering/Architectural services for HMA program(s).							
Section 2.	That any and all project-related services contracts or commitments made with the above-named service provider(s) are dependent on the successful negotiation of a contract with the service provider(s).							

PASSED AND APPROVED ON THE 5th day of February, 2024.

APPROVED:	
Erica Gillum, Mayor	
ATTEST:	
Sabrina Alvarez, City Secr	etary



1125 Austin Street • Hempstead, Texas 77445 • Tel: 979-826-2486 • Fax: 979-826-6703

February 5, 2024

The City of Hempstead sent a Request for Qualifications for the Hazard Mitigation Assistance program. The requests were sent on January 2, 2024 with a deadline of January 18, 2024. Only one proposal from an engineering firm was received as follows:

1. Bleyl Engineering

Pica Millum

The Statement of Qualifications was reviewed by the Selection Committee and determined to satisfy the selection criteria in the RFQ. This firm is qualified to provide engineering services on this project. The firm was chosen via vote at the City Council meeting held on February 5, 2024.

Mayor



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RESOLUTION NO. 24-___

A RESOLUTION OF THE CITY OF HEMPSTEAD, TEXAS, SETTING A DATE, TIME, AND PLACE FOR A PUBLIC HEARING ON THE PROPOSED ANNEXATION OF AN APPROXIMATELY THIRTY-THREE ACRE TRACT OF LAND BY THE CITY; PROVIDING A DESCRIPTION OF SUCH TRACT OF LAND; PROVIDING A PROPOSED SERVICE PLAN AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT MATTER.

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

<u>SECTION 1.</u> On the 4th day of March, 2024, at 6 p.m. in the City Council Chamber of the City Hall of the City of Hempstead, Texas, located at 1125 Austin St., Hempstead, TX 77445 the City will hold a public hearing giving all interested persons the right to appear and be heard on a proposed annexation of an approximately thirty-three (33) acre tract of land described in detail along with a map both as attached hereto as Exhibit "A" and incorporated herein (the "Property"), such date being no earlier than the 21st day nor later than the 30th day of adoption of this Resolution in accordance with Section 43.0684 Texas Local Government Code.

<u>SECTION 2.</u> Through adoption of this Resolution, the City expresses it intent to annex the Property. The annexation is being requested by the sole landowner who submitted a petition requesting annexation which has been verified by the City Secretary. A copy of such petition is attached hereto as Exhibit "B" and incorporated herein.

<u>SECTION 3.</u> Services to be provided by the City to the Property and the effective date for each is set forth in the Service Plan attached as Exhibit "C" and incorporated herein.

<u>SECTION 4.</u> Not later than seven days after adoption of this Resolution, the Mayor or her designee are authorized and directed to mail to each resident and property owner of the Property a certified copy of this Resolution along with its exhibits and other information as may be required pursuant to Section 43.0683 Texas Local Government Code for annexation of the Property.

<u>SECTION 5</u>; There are no other landowners or registered voters other than petitioner signing the petition which is attached hereto as Exhibit "B."

PASSED AND APPROVED) this	the 5 th	day	of Febr	uary, 2024.
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Eric	ca Gillum, Mayor
ATTEST:	
Sabrina Alvarez, City Secretary	y

PETITION FOR VOLUNTARY ANNEXATION INTO THE CORPORATE BOUNDARY OF THE CITY OF HEMPSTEAD, TEXAS

TO: The Mayor and Governing Body of the City of Hempstead, Texas:

The current use of the subject tract is: Undeveloped

The undersigned being all the owner(s) of the hereinafter described tract of land which is contiguous to the City of Hempstead ("City"), one-half mile or less in width, is vacant and without any residents who are registered voters, hereby petition the City to be annexed into the City, thereby extending the present City limits. The subject tract of land is further described in detail along with a map as attached Exhibit "A" hereto and incorporated herein by reference.

There being no other landowners nor registered voters, the undersigned hereby waives the 180 day period set out under Section 43.0685 Texas Local Government Code and grants consent to the City to proceed immediately with annexation of the subject tract, as there are no additional signatures to be added to this petition.

LANDOWNER and REGISTERED VOTER (if applicable):
BY: Julie
B. WALLACE EU?
(for individual)
STATE OF TEXAS
COUNTY OF WALLER Harris
The instrument was acknowledged before me by <u>Ben Wallace</u> , and on the <u>\sqrt{sqrt}</u> day of <u>Feb</u> , 2024.

Notary Public, State of Texas

TRICIA ANNE WAGNER
Notary Public, State of Texas

Comm. Expires 08-01-2027 Notary ID 134485458

(for corporation or partnership)			
STATE OF TEXAS			
COUNTY OF WALLER			
The instrument was acknowledged before(title) of, 2024.		on the	day of
	Notary Public, Sta	ate of Texas	



Sabrina Alvarez, City Secretary

City of Hempstead

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ORDINANCE NO24									
AN (ORDINANCE	OF THE	CITY	COUNCIL	OF THE	CITY	OF	HEMPSTEAD.	TEXAS

23-112 WHICH WILL AMEND THE AMENDING ORDINANCE NO. CITY BUDGET FOR THE 2023-2024 FISCAL YEAR AND AUTHORIZING AMENDED REVENUES AND EXPENDITURES AS THEREIN PROVIDED. WHEREAS, on or about __September 15, 2023_____, the City Council of the City of Hempstead, Texas, adopted Ordinance No. 23-112 approving its Budget for the 2023-2024 Fiscal Year ("Budget"); and WHEREAS, the City Council has now determined it to be in the best interests of the City to amend this Ordinance as presented herein; and WHEREAS, this amendment was prepared and presented to the City Council as prescribed and in accordance with applicable law; now, therefore, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS: PART 1: That Ordinance No. 23-112 is hereby amended by amending the 2023-2024 Budget adopted thereto as further detailed in Exhibit "A" attached hereto and incorporated herein for all purposes. PART 2: That this amendment to the Budget shall be attached to and made a part of the 2023-2024 Budget. PART 3: That except as amended hereby and any prior amendments, the Budget shall remain in effect in accordance with its terms. **PART 4:** That this ordinance shall become effective immediately after passage and approval. PASSED and APPROVED this 5th day of 2024 February ATTEST: APPROVED:

Erica Gillum, Mayor

Transfer funds from Maintenance on Systems (Street Department) to Salaries (Street Department) for the hiring of a full-time position. Total salary is \$23,040.00 from February 22, 2024-September 22, 2024.

City of Hempstead, Texas

TAX ABATEMENT AND INCENTIVES GUIDELINES AND CRITERIA

ADOPTED: APPROVED DATE HERE



Whereas, the creation and retention of job opportunities that bring new wealth into City of Hempstead is a high priority; and

Whereas, new jobs and capital investment will benefit the area economy, provide needed economic opportunities, and generate tax revenue to support local services; and

Whereas, the City of Hempstead must compete with other localities across the nation currently offering tax Incentives to attract new commercial investment; and

Whereas, any Incentives offered in the City of Hempstead would be strictly limited in application to those industries that bring new capital investment and jobs to the community; and

Whereas, Incentives, when offered to attract primary jobs in industries which bring in revenue from outside the County, instead of merely re-circulating dollars within the County, have been shown to be an effective method of enhancing and diversifying the local economy; and

Whereas, Incentives should not be used to attract those industries that have demonstrated a lack of commitment to protect the environment; and

Whereas, the City of Hempstead City Council approves Hempstead Economic Development Corporation ("HEDC"), and considers HEDC to be the exclusive entity for the provision of professional services for qualifying applicants seeking assistance; and

Whereas, effective September 1, 1987, Texas law, pursuant to Chapter 312 of the Texas Tax Code, requires any eligible taxing jurisdiction to establish guidelines and criteria as to eligibility for tax Abatement Agreements, or Incentives, prior to granting of any future tax Abatement or Incentives, said guidelines and criteria to be unchanged for a two-year period unless amended by a three-quarters vote of City Council; and

Whereas, these guidelines and criteria do not: (1) limit the discretion of the City of Hempstead to decide whether to enter into a specific tax Abatement or Incentives agreement; (2) limit the discretion of the City of Hempstead to delegate to the Mayor or to the HEDC authority to determine whether or not the governing body should consider a particular application or request for tax Abatement or other Incentives; or (3) create any property, contract, or other legal right in any applicant to have the governing body consider or grant a specific application or request for tax Abatement or Incentives.

Now, therefore, be it resolved that the City of Hempstead City Council does hereby adopt these Guidelines and Criteria for granting tax Abatement in reinvestment zones or Incentives in Hempstead, Texas.

ADMONITORY PROVISIONS

With regard to a tax Abatement, the final determination of value to be abated is vested with the Waller County Appraisal District ("WCAD"), an agency autonomous from the City of Hempstead.

Tax Abatement and/or Incentives provided by the City of Hempstead are subject to an economic impact analysis. Applicants scoring well will be encouraged to apply for Incentives. First priority for providing Incentives to any applicant is given to projects that are located within areas of economic interest to the City of Hempstead and that conform to the City's overall development objectives.

Applicants applying for tax Abatement or Incentives with the City of Hempstead are advised that any agreement with the City of Hempstead applies only to taxes assessed by the City. Any Abatement or Incentive agreement with other taxing entities must be negotiated directly with such entities. In addition, each applicant receiving tax Abatement retains the responsibility for annually applying to the WCAD for recognition and implementation of their Abatement Agreement. To keep the Abatement active, the applicant must file all appropriate forms with WCAD. The Abatement will terminate if the applicant fails to provide the appropriate forms annually to the WCAD or fails to cooperate in verifying compliance with the terms of the agreement.

SUMMARY

QUALIFICATION

Each project is reviewed on a case-by-case basis. The Incentives, if any, will be determined based on the merits of the project, including, but not limited to, total capital investment value, the number of permanent and temporary jobs created, the costs and benefits for the City, and the project's impact on Hempstead's economy. Each applicant will be qualified through an economic impact analysis. Those providing a significant economic impact will be considered for Incentives.

QUALIFYING FACILITY CLASSES

Extended to new facility, expansion, or modernization.

This list is used as a guide and doesn't represent a comprehensive list of potential project types or a commitment by the City of Hempstead.

- Corporate Headquarters
- · Manufacturing Facility
- · Research Facility
- Regional Distribution Facility
- · Regional Service Facility
- Regional Entertainment/Tourism
- Retail Facility
- Other Basic Industrial Facility

Real property improvements, fixed machinery and equipment, and other qualifying personal property, excluding inventory, are considered for Abatement. Property classifications will follow the definitions provided by the Waller County Appraisal District.

Minimum requirement of one-million dollars (\$1,000,000.00) increase in appraised value of real or business personal property and the creation of at least two (2) on-site, full-time jobs.

The City reserves the right to deviate from the terms of this policy at the sole discretion of the City Council.

MINIMUM INVESTMENTS

SPECIAL CONSIDERATIONS

RIGHT OF REFUSAL

The City of Hempstead reserves the right to not grant a tax Abatement or Incentive. If it does grant a tax abatement, the City may determine, at its sole discretion, the amount of such tax Abatement.

STATUTORY LIMITS

By state statute, a tax Abatement cannot exceed 10 years.

SECTION: 1 GENERAL PURPOSE AND OBJECTIVES

These policies cover Chapter 380 reimbursement agreements and tax Abatements.

The City of Hempstead is committed both to the promotion of high-quality development within the City and to improving the quality of life for its citizens. To meet these objectives, the City will, on a case-by-case basis, consider providing Incentives within designated reinvestment zones to stimulate economic development in the City.

The City of Hempstead will consider Incentives for qualified business in accordance with the procedures and criteria outlined in this document and the provisions of Chapter 312 and Chapter 380 of the Texas Tax Code. Nothing herein shall imply or suggest that the City is under any obligation to provide any Incentive to any applicant. All applications will undergo an economic impact analysis and shall be considered on a case-by-case basis.

All applications for Incentives must be for commercial and/or industrial improvements. No residential developments will be considered. Incentives are available for both new facilities and for the expansion and modernization of existing facilities.

Applicants must meet the "but-for" standard. This standard requires that an applicant demonstrate the need for an Incentive based on Chapter 311.003 of the Texas Tax Code (See "APPLICATION" on page 11.). Tax Abatement will not be ordinarily considered for projects that would be developed without such Incentives unless it is demonstrated that higher development standards or other community development goals will be achieved through the use of Incentives. The project shall either add to the diversity of the City's industrial or commercial base and/or has the potential to attract other business development.

SECTION: 2 DEFINITIONS

- **Abatement** means the full or partial exemption from ad valorem taxes of certain new improvements of real and/or personal property in a reinvestment zone designated for economic development purposes.
- **Agreement** means a contractual agreement between the City of Hempstead and a property owner and/or lessee for the purpose of tax abatement.
- Base Year Value mean the assessed value of eligible property on January 1 preceding the execution of the Agreement plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the agreement.

- Corporate Headquarters Facility means the facility or portion of a facility where corporate staff employees are physically employed and where the majority of the company's financial, personnel, legal, planning or other headquarters related functions are handled either on a national, regional or division basis.
- **Deferred Maintenance** means improvements necessary for continued operations, which do not improve productivity or alter the process technology.
- **Economic life** means the number of years a property improvement is expected to be in service at a facility. Provided, however, that in no circumstances shall the number of years exceed the depreciation allowance specified in the United States Internal Revenue Code.
- Effective Date of Abatement means the first day of January immediately following the date the Agreement is executed by the City of Hempstead and the applicant.
- **Expansion** means the addition of buildings, structures, fixed machinery, equipment, and/or personal property for the purpose of increasing production capacity or services.
- **Facility** means real property improvements completed or in the process of construction which together comprise an integral whole.
- **Incentive** means a payment or concession to stimulate greater taxable value and capital investment.
- Manufacturing Facility means buildings, structures, fixed machinery, equipment and personal property, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- Modernization means the upgrading of existing facilities, which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation; modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery, equipment and personal property. It shall not be for the purpose of reconditioning, refurbishing or repairing.
- New Facility means a property, previously undeveloped, that is placed into service by means other than or in conjunction with expansion or modernization.

- New Machinery and Equipment means tangible machinery, equipment, or business personal property that is securely placed or fastened and stationary within a building or structure or permanently resides in the City of Hempstead.
- Other Basic Industry Facility means buildings and structures including fixed machinery, equipment, or business personal property not elsewhere described, used or to be used for the production of products or services which primarily serve a market outside the City of Hempstead and result in the creation of new permanent jobs and bring new wealth into the City.
- **Real Property** means the land on which a facility is placed.
- **Reinvestment Zone** is a specific parcel of property designated by the City within which tax Abatement can be granted, as defined by Chapter 312 of the Texas Tax Code.
- Regional Distribution Facility means buildings and structures including fixed machinery, equipment, and personal property used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility, from which a majority of revenues generated by the activity at the facility are derived from outside the City of Hempstead.
- Regional Entertainment/Tourism Facility means buildings and structures, including fixed machinery, equipment, and personal property used or to be used to provide entertainment and/or tourism related services, from which a majority of revenues generated by activity at the facility are derived from outside the City of Hempstead.
- Regional Service Facility means buildings and structures, including fixed machinery, equipment, and personal property used or to be used to provide a service, from which a majority of revenues generated by activity at the facility are derived from outside the City of Hempstead.
- Research Facility means buildings and structures, including fixed machinery, equipment, and personal property used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.
- Retail Facility means space provided for the conducting and management of business, and the storing and selling of goods directly to consumers.

SECTION: 3 STANDARDS, CRITERIA, AND EXAMPLES

MINIMUM STANDARDS FOR TAX ABATEMENT

- The project shall not have any negative environmental impacts on the community (e.g. significant pollution or hazardous waste). If the project requires environmental permitting that must be disclosed to the City during the application process.
- Companies must make every effort to use local resources (services, employees, suppliers, etc.).
- The project should be expected to increase or create payroll on a permanent basis or prevent the loss or retention of payroll within the City.
- All wages must meet the 50th percentile, at minimum, per position as identified using the Department of Labor's Standard Occupational Code (SOC) to qualify for Incentives. The final determination of the average wages for a specified SOC will be based on the average regional wage as provided by the local workforce board.
- The project will have an increased appraised ad valorem tax value of at least \$1,000,000, excluding land, upon completion of the anticipated real property improvements and qualifying personal equipment based upon the Waller County Appraisal District's assessment of the eligible property.
- Each project must create at least two (2) new full-time jobs.
- Tax Abatement may only be granted for the additional tax value resulting from any of the following:
 - Construction of a new facility of any type herein defined;
 - Expansion of existing facilities of any type as herein defined; or
 - Modernization of existing facilities of any type as herein defined.
- The project will not solely and primarily have the effect of transferring employment from one part of the City to another.
- The development must conform to the City's building codes and zoning ordinances. If a change in zoning is required, the project must be presented to the Planning and Zoning Board before applying for Incentives.

- The cost of City services required for the development should not exceed the amount of taxes generated if Incentives are provided.
- Applicants for Incentives must be financially viable and in good legal standing with the City and State.

PROJECT EVALUATION CRITERIA FOR TAX ABATEMENT FISCAL IMPACTS

- What is the estimated total value of capital investment for buildings, other real property improvements and furniture, fixtures and equipment?
- What is the value of the Real and Business Personal Property that will be added to the tax rolls?
- How much direct sales tax will be generated (for retail projects)?
- Will infrastructure construction be required and at what cost to the City? What will the project contribute to the additional infrastructure costs?
- What is the estimated number of hotel/motel stays per year that will be booked locally as a result of the project?
- What is the estimated return on public investment?
- Does the company have a history of and/or commitment to community support of Hempstead or the community in which the company is now located?
- How much potential in capital impact fees and other planning, permit, utility taps and fees will be paid to the City?
- Will the project help increase the business opportunities of existing local suppliers and contractors?
- Will the project compete with similar existing businesses to the detriment of the local economy?

EMPLOYMENT IMPACT

- How many full-time jobs will be added/retained to Hempstead?
- What types of jobs will be created?
- What is the average annual salary and total payroll of jobs created and/or retained?

Will quality of life benefits be offered? Examples include employer paid health, dental, vision and/or life or disability insurance, profit sharing, 401K or other retirement plan, paid vacations and/or holidays.

COMMUNITY IMPACT

- Does the project pose any negative operational, visual or other impacts, such as noise or traffic congestion?
- How does the project support goals that are related to preferred quality of life standards such as preservation of open space or unequaled contribution to the development or redevelopment efforts in the City?
- Will the project have high visibility, image impact, or be located near a gateway of the City, and if so, will they contribute to the aesthetic appeal in the design and materials of their building, green space, and landscape plan?

SECTION: 4 INCENTIVE AUTHORIZED

- (a) Creation of New Value: Incentives may only be granted for the additional value of eligible property improvements made subsequent to and in an Abatement agreement between the City of Hempstead and the property owner and/or lessee, subject to such recommendations from the Hempstead Economic Development Corporation.
- (b) **Eligible Property:** Abatement/Incentive may be extended to the value of real property improvements, fixed machinery & equipment, qualifying business personal property (excluding inventory), and related fixed improvements necessary to the operation and administration of the facility.
- (c) **Ineligible Property:** The following types of property shall generally be fully taxable and ineligible for abatement: land, inventories, supplies, tools, furnishings, and other forms of movable business personal property; vehicles, vessels, aircraft, housing, deferred maintenance investments, property owned or used by the State of Texas or its political subdivision or by any property exempted by local, state, or federal law; and property owned or leased by a member of City council, member of the Planning and Zoning Commission of the City, or member of the Hempstead Economic Development Corporation.
- (d) **Leased Facilities:** If a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee. Both the lessor and the lessee will be party to any Incentive or tax Abatement agreement.
- (e) Value and the Term of Abatement: Abatement shall be granted effective with the January 1 valuation date immediately following the date of the execution of

the agreement, unless a later starting date is agreed to by both the applicant and the City. The value and term of Abatement will be determined based on the merits of the project as identified in the economic impact analysis. If a modernization project includes facility replacement, the abated value shall be the value of the new property less the replaced property. However, each application will be considered on a case-by-case basis and the City of Hempstead may abate the value of new eligible property for a total term of Abatement not to exceed the statutory limit of ten (10) years.

- (f) **Taxable Property:** During the term of the agreement, taxes shall be payable as follows:
 - 1) The value of ineligible property shall be fully taxable;
 - 2) The base year value of existing eligible property as determined each year shall be fully taxable; and,
 - 3) The additional value of new eligible property shall be fully taxable at the end of any Abatement period.

SECTION: 5 APPLICATION

Note: Texas Tax Code Chapter 311, Section 311.003 provides the basis to establish the "but-for" standard when considering a tax reinvestment zone or any tax Incentive. This means that "but-for" the Incentives, the project wouldn't happen. Essentially, if an applicant has started construction, or installed equipment, before applying for Incentives, they have not demonstrated a need for any public assistance. So please plan accordingly. The applicable code is included here as a courtesy and doesn't represent a commitment by the City of Hempstead.

Sec. 311.003. PROCEDURE FOR CREATING REINVESTMENT ZONE.(a) The governing body of a county by order may designate a contiguous geographic area in the county and the governing body of a municipality by ordinance may designate a contiguous or noncontiguous geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction of the municipality, or in both to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future.

- (a) Any entity seeking tax Abatement or Incentives from the City of Hempstead must first undergo an economic impact analysis. This analysis is performed by the Hempstead Economic Development Corporation. Based on the results of this analysis, the entity may be encouraged to proceed with an application.
- (b) The written application must be filed with the Hempstead Economic Development Corporation. An application for tax Abatement must be filed prior to the commencement of any construction, alteration, or installation of any

- improvements related to a proposed new facility, expansion, or modernization.
- (c) The application shall be submitted along with a non-refundable fee of \$1,000.00.
- (d) The applicant must certify that they do not employ, nor will they employ any undocumented workers (an individual who, at time of applying for employment, is not lawfully admitted for permanent residence to the United States or, authorized under law to be employed in that manner in the United States). The applicant must agree that if it is convicted of a violation under 8 U.S.C. Section 1324a(f) after receiving tax abatement, applicant shall repay the amount of tax Abatement received with interest, at the rate of 12% per annum, within 120 days after the City notifies the applicant of the violation. The City shall have the authority to bring a civil action to recover any amounts which the applicant must repay to the City under this provision, and in such action may recover court costs and reasonable attorney's fees.
- (e) The City of Hempstead may request additional information, not included in the application, as deemed appropriate for evaluating the financial capacity of the applicant and compatibility of the proposed improvements with these guidelines and criteria.
- (f) After receipt of a completed application, the Hempstead Economic Development Corporation, along with the Mayor and City Administrator, shall review the application to determine if it qualifies for Abatement or Incentives under the terms of these guidelines and criteria.
- (g) The City Council shall not establish a reinvestment zone or enter into a tax Abatement agreement if it finds that the request for Abatement was filed after the commencement of construction, alteration, or installation of improvements related to a proposed new facility, expansion, or modernization or if the applicant deliberately provided false or misleading information that is material to the application.

SECTION: 6 PUBLIC HEARING AND APPROVAL

- (a) The City may not adopt a resolution designating an area as a reinvestment zone until the City has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the area to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 312.204 or 312.211 of the Texas Tax Code, as applicable.
- (b) At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:
 - 1) Published in a newspaper having general circulation in the municipality; and
 - 2) Delivered in writing to the presiding officer of the City and each taxing unit

- that includes in its boundaries real property that is to be included in the proposed reinvestment zone.
- (c) In order to enter into a tax Abatement or Incentive agreement, the City Council must find that the terms of the proposed agreement meet these guidelines and that:
 - 1) There will be no substantial adverse effect on the provision of the City of Hempstead's services or tax base; and
 - 2) The planned use of the property will not constitute a hazard to public safety, health, or welfare.

SECTION: 7 AGREEMENT

After presenting a tax Abatement application within a designated reinvestment zone and a public hearing, the Hempstead City Council shall formally pass a resolution and execute an agreement with the owner of the facility and/or lessee as required, which shall minimally include:

- (a) Estimated value to be abated and base year value;
- (b) Percent of value to be abated each year;
- (c) The commencement date and the termination date of abatement;
- (d) The proposed use of the facility, nature of construction, time schedule for completion of the project, site location map and property description;
- (e) The contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment, or other provisions that may be required for uniformity or compliance with state law;
- (f) Proof of amount of investment, and/or increase in assessed value or other capital investment, and the number of jobs or payroll to be retained or created;
- (g) A requirement that the applicant submit to the City on or before March 1st of each year of the Abatement a report showing the employee count for the abated facility which corresponds to employment counts reported in the facility's Employer's Quarterly Report to the Texas Workforce Commission, and a separate letter certifying that the number of jobs created or retained as a direct result of the abated improvements within the City of Hempstead. The annual report shall be used to determine Abatement eligibility for that year and shall be subject to audit, if requested by the City of Hempstead. Failure to submit may result in the applicant's ineligibility to receive an Abatement for that year, termination of the tax Abatement agreement, and (or) the recapture of abated taxes (See "RECAPTURE" on page 14.)
- (h) The City Council may impose any other conditions in a tax Abatement agreement that the City Council deems necessary to promote the purposes of these guidelines.

SECTION: 8 RECAPTURE

- (a) In the event that the facility is completed and begins producing product or providing service, but subsequently discontinues producing product or providing service for any reason except fire, explosion or other casualty or accident or natural disaster for a period of one (1) year during the Abatement period, then the agreement shall terminate and so shall the Abatement of the taxes for the calendar year during which the facility no longer produces. The taxes otherwise to be abated for the calendar year shall be paid to the City of Hempstead within sixty (60) days from the date of notification of termination by the City of Hempstead.
- (b) Should the City Council determine that the company is in default according to the terms and conditions of this policy, the City of Hempstead shall notify the company in writing at the address stated in the agreement, and if such is not cured within sixty (60) days from the date of such notice (the Cure Period), then the agreement may be terminated.
- (c) In the event that the company allows its ad valorem taxes owed the City of Hempstead to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, or violates any of the terms and conditions of the Abatement agreement and fails to cure during the Cure Period, then the City may terminate the agreement and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination and Cure Period.

SECTION: 9 ADMINISTRATION

- (a) Each year, the company receiving Abatement shall complete the annual compliance forms required by the Waller County Appraisal District as may be necessary to maintain the abatement.
- (b) The agreement shall stipulate that employees and/or designated representatives for the City of Hempstead will have access to the reinvestment zone during the term of the Abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company in accordance with its safety standards.
- (c) Upon completion of construction, the City Secretary or his/her designated person have the option to annually evaluate each facility receiving Abatement to ensure compliance with the agreement.
- (d) All documents related to tax abatements, including the annual certifications, will be kept on file with the City.

SECTION: 10 ASSIGNMENT

An Abatement may be assigned by the holder to a new owner or lessee of the same facility and/or abated property with the written consent of the Hempstead City Council, which consent shall not be unreasonably withheld. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in the agreement. Any assignment of a tax Abatement agreement shall be to an entity that contemplates the same improvements or repairs to the property, except to the extent such improvements or repairs have been completed. No assignment shall be approved if the assignor or the assignee is indebted to the City of Hempstead, or any taxing entity, for ad valorem taxes or other obligations.

SECTION: 11 CONFIDENTIALITY OF PROPRIETARY INFORMATION

Subject to the provisions and limitations of Chapter 552 of the Texas Government Code, some information that is provided to the City of Hempstead in connection with an application or request for the creation of a reinvestment zone for the purpose of tax Abatement in accordance with the above criteria and guidelines and which describes the specific process or business activities to be conducted or equipment or other property to be located on the property for which the tax Abatement is sought is confidential and not subject to public disclosure until the tax Abatement agreement is executed. The information in the custody of the City of Hempstead after the agreement is executed will be treated as confidential to the extent allowed by law.

SECTION: 12 SUNSET PROVISION

These TAX ABATEMENT AND INCENTIVES GUIDELINES are effective upon the date of their adoption and will remain in force for two (2) years, at which time all reinvestment zones and tax Abatement agreements created pursuant to its provisions will be reviewed by the Hempstead City Council to determine whether the goals have been achieved. Based on that review, these guidelines will be modified, renewed or eliminated providing that such actions shall not affect existing agreements.

Sabrina Alvarez

From: Jessica Hall

Sent: Thursday, February 1, 2024 2:23 PM

To: Sabrina Alvarez; Jessica Hall

Subject: Texas Youth Diversion and Early Intervention Act/ H.B. 3186

Attachments: DOC020124-02012024134122.pdf; DOC020124-02012024134239.pdf;

DOC020124-02012024134319.pdf; DOC020124-02012024140455.pdf

Sabrina,

Please see attachments pertaining to information about Texas Youth Diversion.

H.B. 3186 (88th Legislative Session), the Texas Youth Diversion and Early Intervention Act, increases opportunities for early identification of at-risk youth and for redirecting children accused of certain class c misdemeanors.

H.B. 3186 requires the adoption of a youth diversion plan for every municipal and justice courts no later than January 1, 2025.

Diversion Agreement. A diversion agreement is a legally binding contract. Article 45.308 requires a diversion agreement to identify the parties to the agreement and the responsibilities of the child and the child's parent to ensure their meaningful participation in a diversion under Article 45.309 (Intermediate Diversion) or Article 45.310 (Diversion by Justice or Judge). Objectives in a diversion agreement must be measurable, realistic, and reasonable and consider the circumstances of the child, the best interests of the child, and the long-term safety of the community. A diversion agreement has seven statutory requirements: (1) the terms of the agreement, including one or more diversions required to be completed by the child, written in a clear and concise manner and identifying any offense or charge being diverted; (2) possible outcomes or consequences of a successful diversion and an unsuccessful diversion; (3) an explanation that participation in a diversion is not an admission of guilt and a guilty plea is not required to participate in a diversion; (4) an explanation of the process that will be used for reviewing and monitoring compliance with the terms of the agreement; (5) the period of the diversion; (6) verifications that the child and the child's parent were notified of the child's rights, including the right to refuse diversion, and that the child knowingly and voluntarily consents to participate in the diversion; and (7) written acknowledgment and acceptance of the agreement by the child and the child's parent. Diversion agreements are not one-size-fits-all. They are intended to be customized. Article 45.308(d) states that the terms of a diversion agreement may vary depending on the circumstances of the child, including the child's age and ability, the charge being diverted, or the diversion strategy used. In addition to being a contract, there are other significant legal implications associated with a diversion agreement as it pertains to the initial criminal allegation. Under Article 45.308(e), a charge is

prohibited from being filed against a child or, if filed, is required to be dismissed by the court if the child (1) does not contest the charge, (2) is eligible for diversion under Article 45.304, and (3) accepts the terms of the agreement. However, entering into a diversion agreement under Article 45.308 extends the court's jurisdiction for the term of the agreement. On entering into a diversion agreement, Article 45.308(g) requires the clerk of the court, a youth diversion coordinator, or a person specified by the youth diversion plan to provide a copy of the agreement to the child and the child's parent.

Please let me know if you have any questions.

Thanks,

Jessica Hall

COURT ADMINISTRATOR
CITY OF HEMPSTEAD MUNICIPAL COURT

Phone # 979-826-8838

Email: jhall@hempsteadcitytx.gov

Address: 1015 11th Street, Hempstead, TX 77445

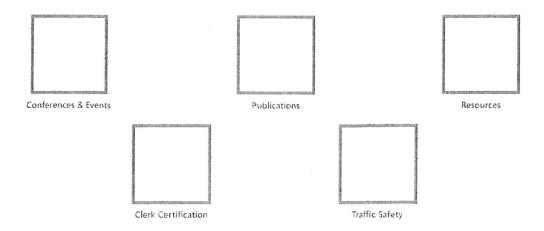
Web Payments: www.hempsteadcitytx.com

Court Email: municipalcourt@hempsteadcitytx.gov

Office Hours- Monday to Friday 8:00 am. to 5:00 pm.

Lunch hour 12:00 pm to 1:00 pm (Closed weekends and some holidays)





Youth Diversion

H.B. 3186 (88th Legislative Session), the Texas Youth Diversion and Early Intervention Act, increases opportunities for early identification of at-risk youth and for redirecting children accused of certain Class C misdemeanors. Currently, municipal and justice courts can only order diversion strategies after a case has resulted in a conviction or deferral of disposition. H.B. 3186 makes these strategies available at the front end of a case where they can be more effective. This aligns municipal and justice court practices with those used by juvenile probation and juvenile courts. The bill also recalibrates and expands opportunities for collaboration and financial resources in both rural and urban parts of Texas. H.B. 3186 requires the adoption of a youth diversion plan for every municipal and justice court no later than January 1, 2025.

This page is intended to serve as a clearinghouse of resources for municipal courts to implement the requirements of H.B. 3186. Please check back frequently for newly added resources.

Resources

H.B. 3186

H.B. 3186 Bill Summary (TMCEC)

NEW! H.B. 3186 Youth Diversion Process Overview: Flowchart with Commentary

Full Court Press: The Blog of TMCEC

Forms

CAVEAT: The forms below are intended to serve as only a guide and to provide accurate and current information. However, it is published with the intention that TMCEC is not engaged in rendering legal or other professional advice. All users must be responsible for their own legal drafting. Legal drafting should be accompanied by legal advice and direction from the city attorney. TMCEC and its employees do not warrant, either expressly or implicitly, that the forms and information below have not been subject to change, amendment, reversal, or revision.

Diversion Agreement: Word PDF

Dismissal of Charge Pursuant to Diversion Agreement: Word PDF

Referral to Court for Hearing – Non-compliance with Diversion Agreement: Word PDF

Order on Referral Hearing - Non-compliance with Diversion Agreement: Word PDF

Coming Soon: Sample Diversion Plans, Sample MOUs for Service Providers, Forms, and more! If you want to share your diversion plan on this webpage, please send it to youthdiversion@tmcec.com.

FAQs: We are collecting questions to create a Frequently Asked Questions page. Please email youthdiversion@tmcec.com with questions related to implementing H.B. 3186. PLEASE NOTE: Questions submitted to this email address are for collection and education purposes only. TMCEC will not respond to any questions submitted



Texas Youth Diversion and Early Intervention Act Effective: January 1, 2024

TMCEC: Tragic events like the one in Uvalde have increased awareness about the importance of identifying and responding to at-risk youth and those with mental illness. Experts believe that early identification and intervention involving gateway offenses is crucial in reducing recidivism, system involvement, costs, and in helping youth access necessary services.

In 2019, the Texas Judicial Council began working with justice and municipal court representatives, juvenile prosecutors, and juvenile defense attorneys to propose statutory changes. The proposed changes were devised by the Texas Judicial Council's Youth Diversion Workgroup and recommended by the Texas Judicial Council's Criminal Justice Committee in 2022 to the legislature. The changes aim to help identify at-risk youth and those living with mental illness and keep them from spiraling deeper into the criminal justice system while also holding them accountable for their actions.

The Texas juvenile justice system consists of distinct civil and criminal components. Civil adjudication entails juvenile probation and juvenile courts and is governed by the Family Code. Criminal adjudication, which is governed by the Code of Criminal Procedure, involves a relatively small number of teenagers accused of felonies who are certified to stand trial as adults in district courts. In municipal and justice courts, criminal adjudication mostly involves children (ages 10-16) accused of non-traffic Class C misdemeanors.

Texas law authorizes most Class C misdemeanors to be civilly adjudicated as conduct indicating a need for supervision (CINS) (See Section 51.03 of the Family Code). Prior to 1987, CINS was the exclusive method for handling such cases. Since then, the number of CINS cases has dwindled. Because juvenile probation and juvenile courts are unable to accommodate the volume of such cases, few cases are handled as CINS. Annually, 30,000-50,000 juvenile justice cases that could be civilly adjudicated as CINS are criminally adjudicated as Class C misdemeanors. With limited financial resources and public recognition for the important role they play in the juvenile justice system, municipal and justice courts have become the first line of responders in most cases involving the misconduct of children. For nearly two decades, the judiciary has worked with the legislature to improve how cases involving youth are handled in municipal and justice courts and ensure that rights are protected and disparities are addressed. Critics claim that disparities in how CINS and Class C misdemeanors are handled make the juvenile justice system unfair. When civilly adjudicated, Texas law provides for the possibility of statutory diversion prior to court. However, under current law, when criminally adjudicated in municipal and justice courts, there is no similar statutory authorization.

H.B. 3186 increases opportunities for early identification of at-risk youth and for redirecting children accused of certain "gateway" Class C misdemeanors. Currently, municipal and justice courts can only order diversion strategies after a case has resulted in a conviction or deferral of disposition. H.B. 3186 makes these strategies available at the front end of a case where they can be more effective. This aligns municipal and justice court practices with those used by juvenile probation and juvenile courts. The bill also recalibrates and expands opportunities for collaboration

and financial resources in both rural and urban parts of Texas. H.B. 3186 requires the adoption of a youth diversion plan for every municipal and justice court no later than January 1, 2025.

Note: Throughout this bill summary, unless specified otherwise, all references to new and amended articles in Chapter 45 are references to the Code of Criminal Procedure.

Section by Section Analysis:

Section 1. Citation

H.B. 3186 may be cited as the Texas Youth Diversion and Early Intervention Act.

Section 2. Subchapter E. Youth Diversion

Rather than reinventing the processes known to work in municipal and justice courts, H.B. 3186 provides for youth diversion in municipal and justice courts by supplementation, specifically, adding a new subchapter (Subchapter E) to Chapter 45 of the Code of Criminal Procedure.

According to the bill's legislative history, Subchapter E should be construed to accomplish the following objectives:

- 1. Reduce recidivism and the occurrence of problem behaviors through intervention without having to criminally adjudicate children in justice and municipal courts.
- 2. Identify at-risk youth, including youth with mental health needs, substance use disorders, or intellectual and developmental disabilities and, where appropriate, make referral to early youth and intervention services under Subchapter D, Chapter 264 of the Family Code.
- 3. Authorize diversions of children charged with certain offenses punishable by imposition of a fine from criminal adjudication that emphasize accountability and responsibility of the parent and the child for the child's conduct while also promoting community safety.
- 4. Increase collaboration between governmental, educational, and non-profit organizations in devising local and regional diversion strategies in rural and urban counties and municipalities.
- A. Definitions. Article 45.301 contains definitions of terms that are used throughout Subchapter E. "Charge" means a formal or informal allegation of an offense, including a citation, written promise to appear, complaint, or pending complaint. "Court" means a justice court, municipal court or other court governed by Chapter 45 of the Code of Criminal Procedure. "Diversion" means an intervention strategy that redirects a child from formal criminal prosecution and holds the child accountable for the child's actions. "Service provider" means a governmental agency, political subdivision (local governments, including a school district), open-enrollment charter school, nonprofit organization, or other entity that provides services to children or families. Other terms defined include "offense," "parent," and "youth diversion plan."
- **B.** Applicability. Article 45.302 limits the application of Subchapter E to a child alleged to have engaged in conduct that constitutes a misdemeanor punishable by fine only, other than a traffic offense.

Note: "Offense" means a misdemeanor punishable by a fine other than a traffic offense. "Traffic offense" is defined in Section 51.02(16) of the Family Code, which parallels Sections 8.07(2) and (3) of the Penal Code (Age Affecting Criminal Responsibility).

- **C. Transfer to Juvenile Court Not Affected**. Article 45.303 states that nothing in Subchapter E precludes a case from being referred, adjudicated, or disposed of as CINS under Title 3 of the Family Code or precludes a permissive or mandatory waiver of criminal jurisdiction and transfer from a municipal or justice court per Section 51.08 of the Family Code.
- **D. Diversion Eligibility.** Current law contains neither a mandate for diversion nor uniform criteria for determining eligibility. Article 45.304 requires a child to be diverted from formal criminal prosecution as provided by Subchapter E with the following exceptions: (1) a child is eligible to enter into a diversion agreement under this subchapter only once every 365 days; (2) a child is not eligible for diversion if the child has previously had an unsuccessful diversion under Subchapter E; (3) a child is not eligible for diversion if a diversion is objected to by the prosecutor; and (4) a court may not divert a child from criminal prosecution without the written consent of the child and the child's parent.
- E. Diversion Strategies. Current law does not provide an inventory of diversion strategies that may be used by municipal and justice courts. Article 45.305 provides a robust non-exhaustive itemization of strategies that may be adopted. Diversion strategies include: (1) requiring a child to participate in a court-approved teen court program operated by a service provider; a school-related program; an educational program, including an alcohol awareness program, a tobacco awareness program, or a drug education program; a rehabilitation program; or a self-improvement program. including a program relating to self-esteem, leadership, self-responsibility, empathy, parenting, parental responsibility, manners, violence avoidance, anger management, life skills, wellness, or dispute resolution; (2) referring a child to a service provider for services, including at-risk youth services; juvenile case manager services; work and job skills training, including job interviewing and work preparation; academic monitoring or tutoring, including preparation for a high school equivalency examination; community-based services; mental health screening and clinical assessment; counseling, including private or in-school counseling; or mentoring services; (3) requiring a child to participate in mediation or other dispute resolution processes; submit to alcohol or drug testing; or substantially comply with a course of treatment prescribed by a physician or other licensed medical or mental health professional; and (4) requiring a child, by court order, to pay restitution not to exceed \$100 for an offense against property; perform not more than 20 hours of community service; or perform any other reasonable action determined by the court.

A diversion strategy may be imposed in connection with (1) an intermediate diversion under Article 45.309, (2) a diversion by a justice or judge under Article 45.310, or (3) a system of graduated sanctions for certain school offenses under Section 37.144 of the Education Code. A diversion strategy may not, however, be used to require a child who is a home-schooled student to attend an elementary or secondary school or to use an educational curriculum other than the curriculum selected by the parent.

Note: Many, but not all, of the diversion strategies in Article 45.305 look familiar. A lot of them are conditions or requirements authorized as a part of a deferred disposition or elsewhere in existing law. H.B. 3186 does not change these laws, but rather allows the possibility for teen court, invenile case management, or other strategies to be used prior to court without a criminal

adjudication.

F. Youth Diversion Plan. Article 45.306 states that a youth diversion plan is a written plan that describes the types of strategies that will be used to implement youth diversion. A youth diversion plan does not limit the types of diversion strategies that are authorized to be imposed in a diversion agreement under Article 45.308 (Diversion Agreement).

Article 45.306 requires each justice and municipal court to adopt a youth diversion plan. However, it also allows a youth diversion plan to be devised for a county or municipality or an individual court within a county or municipality.

To promote collaboration and the leveraging of resources, Article 45.306(d) authorizes local governments to enter into an agreement to create a regional youth diversion plan and collaborate in the implementation of Subchapter E per Chapter 791 of the Government Code (Interlocal Cooperation Contracts). Similarly, because local governments may not have adequate staffing resources, a youth diversion plan may include an agreement with a service provider to provide services for a diversion strategy.

May law enforcement be incorporated into a youth diversion plan? Yes, it is a possibility. H.B. 3186 provides maximum flexibility for local governments throughout Texas in devising a youth diversion plan in light of available resources and circumstances. Subchapter E is court focused. It primarily supplements processes and procedures pertaining to children that are already familiar to municipal and justice courts. It does not change procedures prescribed for law enforcement. Article 45.306(f), however, states that a youth diversion plan may contain guidelines for disposition or diversion of a child's case by law enforcement, but the guidelines are not mandatory.

Be ready for public inspection requests. Article 45.306(g) requires that a current youth diversion plan be maintained on file for public inspection in each justice and municipal court, including courts that collaborate with one or more counties or municipalities.

Because successful implementation of Subchapter E will require more than simply adopting a youth diversion plan, Article 45.306(h) authorizes a court or local government to adopt rules necessary to coordinate services under a youth diversion plan or to implement the subchapter.

G. Youth Diversion Coordinator. Who will be designated youth diversion coordinator in your local municipal or justice court? Article 45.307 authorizes a court to designate a youth diversion coordinator who assists the court in: (1) determining whether a child is eligible for diversion; (2) employing a diversion strategy authorized by Subchapter E; (3) presenting and maintaining diversion agreements; (4) monitoring diversions; (5) maintaining records regarding whether one or more diversions were successful or unsuccessful; and (6) coordinating referrals to court.

The responsibilities of the youth diversion coordinator may be performed by: (1) a court administrator or court clerk, or a person who regularly performs the duties of court administrator or court clerk; (2) an individual or entity that provides juvenile case manager services under Article 45.056; (3) a court-related services office; (4) a community supervision and corrections department, including a juvenile probation department; (5) a county or municipal employee, including a peace officer; (6) a community volunteer; (7) an institution of higher education.

including a public, private, or independent institution of higher education; or (8) a qualified nonprofit organization as determined by the court.

H. Diversion Agreement. A diversion agreement is a legally binding contract. Article 45.308 requires a diversion agreement to identify the parties to the agreement and the responsibilities of the child and the child's parent to ensure their meaningful participation in a diversion under Article 45.309 (Intermediate Diversion) or Article 45.310 (Diversion by Justice or Judge). Objectives in a diversion agreement must be measurable, realistic, and reasonable and consider the circumstances of the child, the best interests of the child, and the long-term safety of the community.

A diversion agreement has seven statutory requirements: (1) the terms of the agreement, including one or more diversions required to be completed by the child, written in a clear and concise manner and identifying any offense or charge being diverted; (2) possible outcomes or consequences of a successful diversion and an unsuccessful diversion; (3) an explanation that participation in a diversion is not an admission of guilt and a guilty plea is not required to participate in a diversion; (4) an explanation of the process that will be used for reviewing and monitoring compliance with the terms of the agreement; (5) the period of the diversion; (6) verifications that the child and the child's parent were notified of the child's rights, including the right to refuse diversion, and that the child knowingly and voluntarily consents to participate in the diversion; and (7) written acknowledgment and acceptance of the agreement by the child and the child's parent.

Diversion agreements are not one-size-fits-all. They are intended to be customized. Article 45.308(d) states that the terms of a diversion agreement may vary depending on the circumstances of the child, including the child's age and ability, the charge being diverted, or the diversion strategy used.

In addition to being a contract, there are other significant legal implications associated with a diversion agreement as it pertains to the initial criminal allegation. Under Article 45.308(e), a charge is prohibited from being filed against a child or, if filed, is required to be dismissed by the court if the child (1) does not contest the charge, (2) is eligible for diversion under Article 45.304, and (3) accepts the terms of the agreement. However, entering into a diversion agreement under Article 45.308 extends the court's jurisdiction for the term of the agreement.

On entering into a diversion agreement, Article 45.308(g) requires the clerk of the court, a youth diversion coordinator, or a person specified by the youth diversion plan to provide a copy of the agreement to the child and the child's parent.

I. Intermediate Diversion vs. Diversion by a Justice or Judge. To avoid a one-size-fits-all approach, Subchapter E provides courts great latitude to tailor their diversion plans to meet the varying needs of both rural and urban cities and counties. This focus on flexibility is reflected in the difference between two distinct statutory frameworks: intermediate diversion and diversion by a justice or judge.

Intermediate diversion under Article 45.309 is only authorized if specified in a youth diversion plan under Article 45.306. It requires a youth diversion coordinator or juvenile case manager to

advise the child and the child's parent before a case is filed that the case may be diverted for a reasonable period not to exceed 180 days if: (1) the child is eligible for diversion under Article 45.304; (2) diversion is in the best interests of the child and promotes the long-term safety of the community; (3) the child and the child's parent consent to diversion with the knowledge that diversion is optional; and (4) the child and the child's parent are informed that they are authorized to terminate the diversion at any time and, if terminated, the case will be referred to court. The terms of an intermediate diversion must be in writing and may include any of the diversion strategies under Article 45.305. The case of a child who successfully complies with the terms of a diversion agreement under Article 45.309 shall be closed and reported as successful to the court. A child who does not comply with the terms of a diversion agreement under Article 45.309 shall be referred to court under Article 45.311.

For a diversion by a justice or judge under Article 45.310, if a charge involving a child who is eligible for diversion is filed with a court, a justice or judge shall divert the case in one of two ways: (1) if the child does not contest the charge, a justice or judge is required to divert the case without the child having to enter a plea; or (2) if the child contests the charge, a justice or judge is required to divert the case at the conclusion of trial on a finding of guilt without entering a judgment of conviction as provided by Article 45.041 (Judgment). A diversion by a justice or judge may not exceed 180 days. The terms of a diversion agreement under Article 45.310 are required to be in writing and may include any of the diversion strategies described by Article 45.305. The case of a child who successfully complies with the terms of a diversion agreement under Article 45.310 shall be closed and reported as successful to the court. A child who does not comply with the terms of the diversion agreement under Article 45.310 shall be referred to court for a hearing under Article 45.311.

Note: As reflected in Article 45.310, a legislative preference for youth diversion should not be construed by judges and court personnel as diminishing a child's right to trial. At the same time, it is important to stress that invoking the right to trial does not alleviate a judge's statutory obligation to divert at the conclusion of trial on a finding of guilt without entering a judgment of conviction.

J. Referral to Court. Article 45.311 requires a court to conduct a non-adversarial hearing for a child who does not successfully complete the terms of either an intermediate diversion under Article 45.309 or a diversion by a justice or judge under Article 45.310 and is referred to the court. The hearing is an opportunity for a justice or judge to confer with the child and the child's parent to determine whether a diversion should be declared unsuccessful by the court. The court may also hear from any person who may be of assistance to the child or the court in determining what is in the best interests of the child and the long-term safety of the community.

After a hearing, per Article 45.311(c), a court may enter an order: (1) amending or setting aside terms in the diversion agreement; (2) extending the diversion for a period not to exceed one year from the initial start date of the diversion; (3) issuing a continuance for the hearing for a period not to exceed 60 days to allow an opportunity for compliance with the terms of the diversion; (4) requiring the child's parent to perform any act or refrain from performing any act as the court determines will increase the likelihood the child will successfully complete the diversion and comply with any other order of the court that is reasonable and necessary for the welfare of the

child; (5) finding the diversion successful on the basis of substantial compliance; or (6) finding the diversion unsuccessful and either transferring the child to juvenile court for alleged CINS under Section 51.08 of the Family Code (Transfer From Criminal Court) or referring the charge to the prosecutor for consideration of re-filing. The statute of limitations in Article 12.02(b) of the Code of Criminal Procedure is tolled during the diversion period. This means that from the start date to the end date of a diversion agreement, the statute of limitations clock does not run, making it possible for a case to be filed in municipal court more than two years from the offense date.

Note: There is an important caveat regarding orders affecting parents. Under Article 45.311(e), orders against parents are enforceable by contempt. However, Article 45.311(d) prohibits such orders from having the substantive effect of interfering with a parent's fundamental right to determine how to raise the parent's child, unless the court finds that the interference is necessary to prevent significant impairment of the child's physical, mental, or emotional health.

K. Local Youth Diversion Administrative Fee (LYDAF). Article 45.312 authorizes the clerk of a court to collect from a child's parent a \$50 administrative fee to defray the costs of the diversion of the child's case. The LYDAF may not be collected unless specified as a term of the diversion agreement accepted by the child's parent. However, if the fee is not paid after giving the parent an opportunity to be heard, the court shall order the parent, if financially able, to pay the fee to the clerk. An order to pay is enforceable by contempt. However, if the parent is indigent or does not have sufficient resources or income to pay, a court shall waive the fee. A court may adopt rules for LYDAF financial hardship waivers.

There are two additional important requirements in Article 45.312 relating to the LYDAF. First, the clerk of the court is required to keep a record of fees collected and shall forward the funds to the local government treasurer or person fulfilling the role of treasurer. Second, the fee shall be deposited in a special account that can be used only to offset the cost of the operations of youth diversion programs under Subchapter E.

Article 45.312 also contains two important prohibitions. Except for the LYDAF, no additional fee may be assessed for a child diverted under Subchapter E. The diversion of a child may not be contingent on payment of the LYDAF.

Note: The LYDAF is different than most fees collected in municipal and justice courts typically associated with children accused of Class C misdemeanors. Its collection is not triggered by a judgment/conviction or a deferred disposition. There is no state mandate to collect the LYDAF. Rather, state law authorizes its collection. And it is not collected from the child-defendant, but rather the child's parent, subject to the terms of the youth diversion agreement. (In contrast, parents are under no legal obligation to pay any cost assessed against a child in a criminal adjudication.) While 90% of state court costs in criminal cases are remitted to the state, the LYDAF, which is not a state criminal court cost, is 100% locally retained and can only be used to offset the cost of the operations of youth diversion programs under Subchapter E. Article 45.312 implicitly states that the LYDAF may not be collected without complying with the requirements of Subchapter E.

L. Diversion Records. Article 45.313 requires justice and municipal courts to maintain statistics for each diversion strategy authorized by Subchapter E. Such data can be used by courts and local

governments for planning and gauging diversion efforts. However, all records generated under Subchapter E, other than statistical records, are confidential under Article 45.0217 (Confidential Records Relating to Charges Against or Conviction of a Child). All youth diversion records of a child under Subchapter E are required to be expunged, without a motion or request, on the child's 18th birthday.

Sections 3-8. Other Changes to Chapter 45 of the Code of Criminal Procedure

The addition of Subchapter E (Youth Diversion) to Chapter 45 of the Code of Criminal Procedure required making conforming amendments in other Subchapters of Chapter 45. Some of these changes are substantive.

A. Plea by Minor and Appearance by Parent. Article 45.0215(a) is amended to reflect that the provisions in present law pertaining to a plea by a minor and the appearance of a parent must be read in conjunction with the general statutory directive in Subchapter E to divert children.

B. Judgment. H.B. 3186 amends Article 45.041 adding Subsection (a-2) and amending Subsection (b-3).

Youth diversion does not negate the right to trial. Subsection 45.041(a-2) provides that if a child who is eligible for diversion under Article 45.304 goes to trial, and if the court determines that the evidence presented in a bench trial would support a finding of guilt, or if a jury returns a verdict of guilty, the court must provide the child and the child's parents the opportunity for diversion per Article 45.310 (Diversion by Justice or Judge). If the child and the child's parent decline the diversion, the court shall find the child guilty and proceed to sentencing.

If a diversion is not required under Subchapter E, who chooses how a child defendant shall discharge the judgment? Subsection 45.041(b-3), as amended, states that if a diversion is not required under Subchapter E or Subsection (a-2), a judge *must* allow a defendant who is a child to elect at the time of conviction to discharge the fine and costs either by: (1) performing community service or receiving tutoring under Article 45.049 (Community Service in Satisfaction of Fine or Costs) or (2) pay the fine and costs per Article 45.041(b). Under current law, a judge may, but is not required to, allow a child to make such an election.

Note: While H.B. 3186 excludes traffic offenses from the scope of statutory diversion under Subchapter E, no such exclusion exists for the amendment to Article 45.041(b-3). Accordingly, even children convicted of traffic offenses must be allowed to elect how they will discharge the judgment. These elections under Article 45.041(b-3) should be carefully documented by courts. It is also important to remember that a defendant may discharge the obligation to perform community service at any time by paying the fine and costs assessed.

C. Community Service. Article 45.049(f) specifies the circumstances when certain government actors are not liable for damages arising from community service. H.B. 3186 extends such protections to community service performed as part of a diversion under Subchapter E. Because it is anticipated that juvenile probation departments will take on an increased role under Subchapter

E in some jurisdictions, H.B. 3186 amends Article 45.049(I) to include local juvenile probation departments among the entities authorized to supervise community service.

D. Sections 6-8. Juvenile Case Management

In 2018, the Texas Judicial Council's Juvenile Justice Committee recommended that the legislature amend the law to clarify and expand the use of juvenile case managers in Texas.

Article 45.056 authorizes local governments to employ a juvenile case manager to assist in administering cases involving children. As conceptualized by University of Texas Law Professor Robert O. Dawson, juvenile case managers generally operate as several positions rolled into one: an innovative problem-solver that is part court clerk, part probation officer, and part social worker.

In 2011, the legislature's commentary to S.B. 61 stated that although their roles vary, juvenile case managers are intended to serve as problem solvers by fostering interaction between youth and judges, integrating social services into the disciplinary process, and cooperating with children, parents, schools, and courts to best serve the interests of children and the community. The commentary also stated that despite the increased use of juvenile case managers since first authorized in 2001 and the creation of the juvenile case manager fund in 2005, the legislative intent behind the creation of this unique position remains largely unrealized.

Although the exact number of juvenile case managers is unknown, in 2018 it was estimated that there were only 170 juvenile case managers throughout Texas. Most juvenile case managers operate in or near urban and suburban areas, leaving rural areas underserved. Although Article 45.056 has long authorized shared employment of juvenile case managers, there is little evidence to show that rural areas use case managers on a regional basis. Some courts and local governments cannot afford to hire a juvenile case manager and others do not have enough juvenile case filings to warrant hiring a juvenile case manager. Consequently, under current law, only local governments that can afford to hire a juvenile case manager have one.

H.B. 3186 aims to increase the juvenile case manager services throughout Texas by encouraging collaboration between governmental, educational, and non-profit organizations in devising local and regional diversion strategies in rural and urban counties and municipalities.

It does this in multiple ways:

- Article 45.056(a)(1) is expanded to authorize contracting (and joint contracting) for juvenile case manager services to comply with the requirements of youth diversion under Subchapter E.
- Article 45.056(b) is expanded to allow local entities to jointly apply to the Criminal Justice Division of the Office of the Governor for reimbursement of all or part of the costs of employing one or more juvenile case managers or contracting for juvenile case manager services for purposes of youth diversion. To be eligible for reimbursement, an application must be presented to the governor's office with a comprehensive plan to reduce juvenile crimes and a youth diversion plan under Article 45.306 that addresses the role of the juvenile case manager in youth diversion efforts.
- Article 45.056(c) is amended to provide that an entity that jointly employs a juvenile case manager, jointly contracts for juvenile case manager services, or jointly contributes to the

costs of a juvenile case manager or juvenile case manager services under Subsection (a)(3) ploys" a juvenile case manager for purposes of Chapter 102 of the Code of Criminal Procedure (Costs, Fees, and Fines Paid by Defendants) and Chapter 102 of the Government Code.

- Article 45.056(d) is expanded to authorize a court or governing body to pay the costs of
 contracting for juvenile case manager services under the renamed Local Youth Diversion
 Fund (currently Local Truancy Prevention and Diversion Fund in Section 134.156 of the
 Local Government Code).
- Article 45.056(e), as amended and reenacted, states that a juvenile case manager, rather than a juvenile case manager "employed under Subsection (c)," shall give priority to cases brought under Section 25.093 of the Education Code (Parent Contributing to Nonattendance), Truancy Court Proceedings (Chapter 65 of the Family Code), and youth diversion under Subchapter E.
- Article 45.056(g), as amended, requires a court, rather than an "employing" court, to implement the rules adopted under Subsection (f) (which requires a governing body to adopt reasonable rules for juvenile case managers).
- Article 45.056(h), as amended, requires the commissioners court or governing body of the
 municipality that administers a local youth diversion fund, rather than a local truancy
 prevention and diversion fund, under Section 134.156 of the Local Government Code to
 require periodic review of juvenile case managers to ensure the implementation of the rules
 adopted under Subsection (f).

Note: Changes made to the Code of Criminal Procedure, Local Government Code, and Government Code reflect a shift toward youth diversion with a focus that includes, but is broader than, truancy prevention. As further discussed below, changes made to Article 45.056(b) not only increase the scope of costs the governor's office can reimburse to include those related to juvenile case management, but also increase the number of municipal and county governments who may apply individually or jointly for reimbursement funding. This could prove to be a much-needed boon for rural Texas counties and cities that have historically been ineligible for reimbursement because Article 45.056 only contemplated reimbursement for cities and counties that employed juvenile case managers.

Sections 9-11, 14, 15, 16-18. Other New Potential Youth Diversion Funding Sources and Related Issues

In addition to the Local Youth Diversion Administrative Fee (LYDAF) in Article 45.312 and broader eligibility for reimbursement under Article 45.056(b) described above, H.B. 3186 recalibrates, expands, and adds to existing funding sources for the purposes of youth diversion under Subchapter E.

A. Child Safety Fund. Under current Article 102.014 of the Code of Criminal Procedure, monies collected for the Child Safety Fund are used by municipalities and counties to pay for school crossing guard programs. If a municipality does not operate a school crossing guard program or if the money received from fines from municipal court cases exceeds the amount necessary to fund the school crossing guard program, a municipality may expend the additional money for programs designed to enhance child safety. Similar provisions exist for counties where money is similarly

collected in justice, county, and district courts. As amended, youth diversion is added to the list of ways a municipality or county may expend additional child safety funds.

B. Juvenile Delinquency Prevention Funds. In 2015, graffiti (Section 28.08 of the Penal Code) became a Class C misdemeanor when the pecuniary loss in property damage is less than \$100. However, Article 102.0171 of the Code of Criminal Procedure (Juvenile Delinquency Prevention Funds) was never amended to allow municipal or justice courts to collect the \$50 per conviction fine authorized for other trial courts. As amended, municipal and justice courts are added to the trial courts authorized by Article 102.0171(a) to collect this \$50 per conviction fine for graffiti and deposit it in a municipal juvenile delinquency prevention fund. Funding for youth diversion under Subchapter E is added to the list of potential uses for money in this fund.

C. State and Local Youth Diversion Funds. One way the costs of implementing Subchapter E will be defrayed is by renaming and expanding the use of state and local funds currently earmarked for truancy prevention and diversion. Both state and local funds are renamed. As amended, Section 133.125 of the Local Government Code provides that money in the state general revenue fund shall be appropriated from the legislature to the governor's office for purposes of distribution to local government entities for purposes of youth diversion. (See previous discussion of Article 45.056 of the Code of Criminal Procedure.)

Since 2019, state law has required local governments to collect a consolidated fee on conviction of nonjailable misdemeanors (Section 134.103 of the Local Government Code). The local consolidated fee is \$14, and \$5.7143% (\$5) is presently allocated to the Local Truancy Prevention and Diversion Fund. Under current law, these funds can only be used to finance the salary, benefits, training, travel expenses, office supplies, and other necessary expenses relating to the position of a juvenile case manager employed under Article 45.056 of the Code of Criminal Procedure. As previously described, under the amended and renamed Local Youth Diversion Fund, the term "employed" is expanded to included joint contracting for juvenile case manager services and joint contributing to the costs of a juvenile case manager or juvenile case manager services for the purposes of Section 134.156 of the Local Government Code.

But what if a local government does not need or want juvenile case management as part of its youth diversion planter more than four years, local governments have been required to collect \$5 per case per conviction in all Class C misdemeanors. Many municipal and justice courts, particularly in rural Texas, presently have no way to spend money in the Local Truancy Prevention and Diversion fund because of current limitations in Section 134.156 of the Local Government Code. H.B. 3186 helps remedy this bottleneck by adding Subsection 134.156(a-1) to the Local Government Code, which authorizes the governing body of a county or municipality that does not employ or contract with a juvenile case manager, in consultation with a court, to direct money in the Local Youth Diversion Fund to support local mental health authorities, juvenile alcohol and substance abuse programs, educational and leadership programs, teen court programs, and any other project designed to prevent or reduce the number of juvenile referrals to court.

Note: By amending Article 45.056 and Section 134.156 of the Local Government Code, the legislature clearly intends to expand the use of juvenile case managers by making juvenile case management not just a job, but a service that can be contracted on an as-needed basis or that can be shared between courts in municipalities and counties. Thankfully, local governments without

juvenile case management services will now be able to use the Local Youth Diversion Fund to support a local mental health authority and other programs and projects designed to prevent or reduce the number of juvenile referrals to court.

Section 12. Early Youth Intervention Services

Under current law, Section 264.302(e) of the Family Code (Early Youth Intervention Services) requires the Department of Family and Protective Services (DFPS) to provide services for a child and the child's family if a contract to provide services under that section is available in the county and the child is referred to DFPS as an at-risk child by: (1) a juvenile court or probation department as part of progressive sanctions, (2) a law enforcement officer or agency under Section 52.03 of the Family Code (Disposition Without Referral to Court), or (3) a municipal or justice court under Article 45.057 of the Code of Criminal Procedure (Offenses Committed by Juveniles).

H.B. 3186 amends Section 264.302(e)(3) by adding referrals of children and parents as part of an intermediate diversion under Article 45.309 or a diversion by a justice or judge under Article 45.310.

Note: Increasingly, public welfare depends on municipal and justice courts understanding their role in referring children and their families to early youth intervention services. Under H.B. 3186, for interventions to occur, courts must act. This requires developing a working knowledge of local service providers and opening channels of communication.

Section 13. Judicial Instruction Related to Certain Alleged Child Offenders

Under current law, Section 22.1105(a) of the Government Code requires judges, including municipal judges and justices of the peace, to complete a course of instruction relating to understanding relevant issues of child welfare and the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1400 et seq.) every judicial academic year that ends in a 0 or a 5.

H.B. 3186 amends Section 22.1105(a) to change the required course to one with instruction related to youth diversion and understanding relevant issues of child welfare, including issues related to mental health and children with disabilities, every judicial academic year that ends in a 0 or a 5.

Sections 19-21. Implementation and Effective Dates

H.B. 3186 takes effect January 1, 2024. Each justice and municipal court is required to implement a youth diversion plan under Subchapter E not later than January 1, 2025.

Changes made by H.B. 3186 apply to an offense committed on or after January 1, 2025. An offense committed before January 1, 2025, is governed by the law in effect on the date the offense was committed. Former law is continued in effect for that purpose. To determine application, an offense was committed before January 1, 2025, if any element of the offense occurred before that date.

DIVERSION AGREEMENT (Art. 45.308, C.C.P.) (Page 1 of 2)

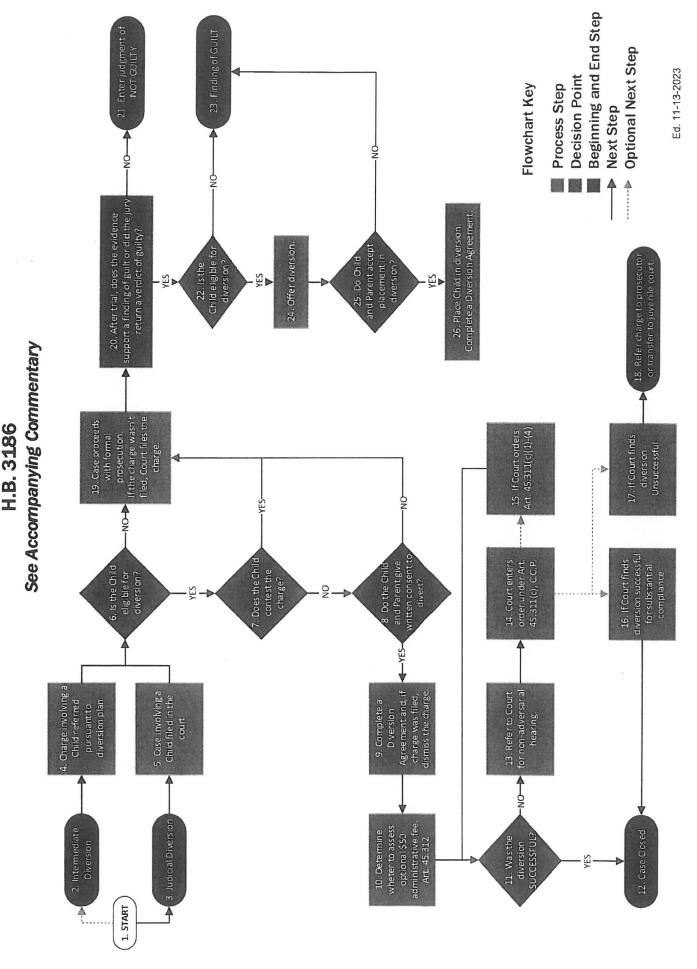
This document constitutes a Diversion Agreement between the Municipal Court of	Diversion Agreement Municipal Court of
The objectives of this agreement are entered into with consideration of the circumstances of the child, the best interests of the child, and the long-term safety of the community. This agreement shall be effective on the day of, 20 and shall be in effect for a period of days (not to exceed 180 days). During the period of this agreement, Child and Parent shall inform the Municipal Court of the best address to receive notices, and of changes to that address. Child and Parent agree to contact, (Juvenile Case Manager) (Youth Diversion Coordinator) of the Municipal Court, at the end of the diversion period to discuss the status of completion of this agreement. During the period of this agreement, Child shall complete: (Specify Child's responsibilities and check applicable Diversion Strategies) Teen Court	and (Child) and (Parent). This Diversion Agreement is entered into as an (Intermediate Diversion under Article 45.309 of the Code of Criminal Procedure) (Judicial
the child, and the long-term safety of the community. This agreement shall be effective on the	Diversion under Article 45.310 of the Code of Criminal Procedure).
Court of the best address to receive notices, and of changes to that address. Child and Parent agree to contact	
Teen Court School-related program: Educational program: Rehabilitation program: Self-improvement program: Self-improvement program: Referred to a Service Provider: Tutoring Community-based Services: Mental health screening Clinical assessment Counseling Mentoring Mentoring Mediation Alcohol Testing Drug Testing Course of treatment prescribed by a physician Restitution (Diversion by Judge Only: Requires separate Order) Community Service (Diversion by Judge Only: Requires separate Order) Other: (Diversion by Judge Only: Requires separate Order)	Court of the best address to receive notices, and of changes to that address. Child and Parent agree to contact
School-related program:	
Educational program: Rehabilitation program: Self-improvement program: Referred to a Service Provider: Tutoring Community-based Services: Mental health screening Clinical assessment Counseling Mentoring Mentoring Mediation Alcohol Testing Drug Testing Course of treatment prescribed by a physician Restitution (Diversion by Judge Only; Requires separate Order) Community Service (Diversion by Judge Only; Requires separate Order) Other: (Diversion by Judge Only; Requires separate Order)	*
Refarred to a Service Provider: Tutoring	School-related program: Fducational program:
Referred to a Service Provider: Tutoring Community-based Services: Mental health screening Clinical assessment Counseling Mentoring Mediation Alcohol Testing Drug Testing Course of treatment prescribed by a physician Restitution (Diversion by Judge Only; Requires separate Order) Community Service (Diversion by Judge Only; Requires separate Order) Community Service (Diversion by Judge Only; Requires separate Order) Community Service (Diversion by Judge Only; Requires separate Order) During the period of this agreement, Parent shall: (Specify Parent's responsibilities)	Rehabilitation program:
Referred to a Service Provider: Tutoring Community-based Services: Mental health screening Clinical assessment Counseling Mentoring Mediation Alcohol Testing Drug Testing Course of treatment prescribed by a physician Restitution (Diversion by Judge Only; Requires separate Order) Community Service (Diversion by Judge Only; Requires separate Order) Other: (Diversion by Judge Only; Requires separate Order) During the period of this agreement, Parent shall: (Specify Parent's responsibilities)	Self-improvement program:
□ Tutoring □ Community-based Services: □ Mental health screening □ Clinical assessment □ Counseling □ Mentoring □ Mediation □ Alcohol Testing □ Drug Testing □ Course of treatment prescribed by a physician □ Restitution (Diversion by Judge Only; Requires separate Order) □ Community Service (Diversion by Judge Only; Requires separate Order) □ Other: (Diversion by Judge Only; Requires separate Order) □ During the period of this agreement, Parent shall: (Specify Parent's responsibilities)	☐ Referred to a Service Provider:
 □ Mental health screening □ Clinical assessment □ Counseling □ Mentoring □ Mediation □ Alcohol Testing □ Drug Testing □ Course of treatment prescribed by a physician □ Restitution (Diversion by Judge Only; Requires separate Order) □ Community Service (Diversion by Judge Only; Requires separate Order) □ Other:	□ Tutoring
 □ Mental health screening □ Clinical assessment □ Counseling □ Mentoring □ Mediation □ Alcohol Testing □ Drug Testing □ Course of treatment prescribed by a physician □ Restitution (Diversion by Judge Only; Requires separate Order) □ Community Service (Diversion by Judge Only; Requires separate Order) □ Other:	☐ Community-based Services:
 □ Counseling □ Mentoring □ Mediation □ Alcohol Testing □ Drug Testing □ Course of treatment prescribed by a physician □ Restitution (Diversion by Judge Only; Requires separate Order) □ Community Service (Diversion by Judge Only; Requires separate Order) □ Other:	☐ Mental health screening
 □ Mediation □ Alcohol Testing □ Drug Testing □ Course of treatment prescribed by a physician □ Restitution (Diversion by Judge Only; Requires separate Order) □ Community Service (Diversion by Judge Only; Requires separate Order) □ Other: (Diversion by Judge Only; Requires separate Order) During the period of this agreement, Parent shall: (Specify Parent's responsibilities)	☐ Clinical assessment
 □ Mediation □ Alcohol Testing □ Drug Testing □ Course of treatment prescribed by a physician □ Restitution (Diversion by Judge Only; Requires separate Order) □ Community Service (Diversion by Judge Only; Requires separate Order) □ Other: (Diversion by Judge Only; Requires separate Order) During the period of this agreement, Parent shall: (Specify Parent's responsibilities)	□ Counseling
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 □ Drug Testing □ Course of treatment prescribed by a physician □ Restitution (Diversion by Judge Only; Requires separate Order) □ Community Service (Diversion by Judge Only; Requires separate Order) □ Other: (Diversion by Judge Only; Requires separate Order) During the period of this agreement, Parent shall: (Specify Parent's responsibilities)	☐ Mediation
 □ Course of treatment prescribed by a physician □ Restitution (Diversion by Judge Only; Requires separate Order) □ Community Service (Diversion by Judge Only; Requires separate Order) □ Other: (Diversion by Judge Only; Requires separate Order) During the period of this agreement, Parent shall: (Specify Parent's responsibilities)	
□ Restitution (Diversion by Judge Only; Requires separate Order) □ Community Service (Diversion by Judge Only; Requires separate Order) □ Other: (Diversion by Judge Only; Requires separate Order) During the period of this agreement, Parent shall: (Specify Parent's responsibilities)	
Community Service (Diversion by Judge Only; Requires separate Order) Other: (Diversion by Judge Only; Requires separate Order) During the period of this agreement, Parent shall: (Specify Parent's responsibilities)	
Other: (Diversion by Judge Only; Requires separate Order) During the period of this agreement, Parent shall: (Specify Parent's responsibilities)	
During the period of this agreement, Parent shall: (Specify Parent's responsibilities)	
	Uther: (Diversion by Judge Only; Requires separate Order)

During the period of this agreement, Parent (shall) (shall not) pay to the clerk of the Municipal Court a \$50 administrative fee to defray the costs of this diversion.

DIVERSION AGREEMENT (Arts. 45.308, C.C.P.) (Page 2 of 2)
During the period of this agreement, Municipal Court shall refrain from processing criminal cases based upon allegations of conduct which occurred on or about the day of, 20 (Case). The following charge or offense is being diverted:
Upon successful completion of this Diversion Agreement, the Municipal Court shall not accept charges related to the Case. Child acknowledges that, upon successful completion of this diversion agreement, Child will be ineligible for diversion for a period of 365 days.
If Child and Parent do not successfully complete the terms of this diversion agreement, the child shall be referred to the court for a hearing, for the purpose of a conference between the judge of the Municipal Court, Child, and Parent. Child and Parent may, after notifying the Municipal Court, bring any other person who may be of assistance to Child or the Municipal Court in determining what is in the best interests of Child and the long-term safety of the community.
Diversion is not an admission of guilt and a guilty plea is not required to participate in diversion.
Child hereby knowingly and voluntarily consents to diversion from criminal prosecution, as provided in this agreement, acknowledges and accepts the terms of this agreement, and verifies that Child received notice of the child's rights, including the right to refuse diversion.
Child's Signature Date
Parent hereby knowingly and voluntarily consents to diversion from criminal prosecution, as provided in this agreement, acknowledges and accepts the terms of this agreement, and verifies that Parent received notice of the child's rights, including the right to refuse diversion.
Parent's Signature Date

Editor's Note: Diversion under Subchapter E of Chapter 45 of the Code of Criminal Procedure applies to non-traffic offenses committed on or after January 1, 2025. See H.B. 3186 (88th Legislature, 2023).

Youth Diversion: Process Overview Flowchart



Youth Diversion: Flowchart Commentary

- types of diversion: intermediate diversion and diversion by judge (or judicial diversion). All courts must do judicial Generally, a child shall be diverted from formal criminal prosecution as provided by Subchapter E of Chapter 45 of the Code of Criminal Procedure. How diversion proceeds will depend on the type of diversion. There are two diversion. Courts may also opt to do intermediate diversion. Arts. 45.309, 45.310, C.C.P. Subchapter E only applies to non-traffic offenses committed on or after January 1, 2025. Art. 45.302, C.C.P.; H.B. 3186 (88th Regular Legislative Session). Box 1.
- must advise the child and child's parent before the charge is filed that a case may be diverted for up to 180 days Intermediate diversion occurs prior to filing the charge. A youth diversion coordinator or juvenile case manager Courts that opt to do intermediate diversion must include that type of diversion in their diversion plan. if the requirements in Article 45.309(a)(1)-(4) are met. Art. 45.309, C.C.P. Box 2.
- Subchapter E provides for judicial diversion after a charge involving a child is filed and after a finding or verdict of guilt in the trial of a child, whether bench or jury trial. Judicial diversion may not exceed 180 days. Art. 45.310, **Box 3.**
- The process for referral of charges under intermediate diversion should be addressed in the diversion plan. After referral, certain determinations must be made before proceeding to diversion. Box 4.
- under Article 45.310. After such a charge is filed, certain determinations must be made before proceeding to If a charge involving a child who is eligible for diversion is filed with the court, the judge must divert the case diversion. Box 5.
- diversion agreement under Subchapter E only once every 365 days. A child is not eligible for diversion if the child Whether intermediate or judicial diversion, a child must be eligible for diversion. A child is eligible to enter into a previously had an unsuccessful diversion under Subchapter E or if the prosecutor objects to the diversion. Art. 45.304, C.C.P. Box 6.
- The child has a right to go to trial. Therefore, if the child contests the charge, set the child for trial. See Boxes 20-26 for diversion after trial. Box 7.

filed, shall be dismissed by the court if the child does not contest the charge, is eligible for diversion, and accepts Article 45.308 lists the requirements for a diversion agreement. A charge may not be filed against a child or, if the terms of the diversion agreement. Box 9.

Article 45.312 authorizes a court to collect from a child's parent a \$50 administrative fee (Local Youth Diversion optional. It may not be collected unless it is specified as a term of the diversion agreement accepted by the Administrative Fee) to defray the costs of the diversion of the child's case under Subchapter E. This fee parent. Diversion may not be contingent upon payment of this fee. Art. 45.312, C.C.P. Box 10.

By the end of the diversion period, determine whether the child has successfully complied with the terms of the diversion agreement. Box 11.

The case of a child who successfully complies with the terms of the diversion agreement shall be closed and reported to the court as successful. Arts. 45.309(c), 45.310(d), C.C.P. Box 12.

adversarial hearing. Arts. 45.309(d), 45.310(e), C.C.P. This non-adversarial hearing is an opportunity for a judge court. The court may also hear from any person who may assist the child or the court in determining what is in to confer with the child and parent to determine whether a diversion should be declared unsuccessful by the A child who does not comply with the terms of the diversion agreement shall be referred to court for a nonthe best interests of the child and the long-term safety of the community. Art. 45.311, C.C.P. Box 13.

After the hearing, a court may enter one of the orders listed in Article 45.311(c). See Boxes 15, 16, and 17 for possible orders. Box 14.

Box 15.

from doing) certain acts the court determines will increase the likelihood the child will successfully complete the child. If the court orders any of these, the next step is to determine whether the child has successfully completed agreement; (2) extending the diversion period not to exceed one year from the initial start date of the diversion; Under Article 45.311(c)(1)-(4), a court may enter an order: (1) amending or setting aside terms in the diversion compliance with the terms of the diversion agreement; and (4) require the child's parent to perform (or refrain diversion and comply with any other order of the court that is reasonable and necessary for the welfare of the 3) issuing a continuance for the hearing for a period not to exceed 60 days to allow an opportunity for the terms of the agreement under the order. Go to Box 11.

- The court may enter an order finding the diversion unsuccessful. Art. 45.311(c)6), C.C.P. Box 17.
- indicating a need for supervision under Section 51.08 of the Family Code or refer the charge to the prosecutor for Upon a finding of an unsuccessful diversion, the court may transfer the child to juvenile court for alleged conduct consideration of re-filing. Art. 45.311(c)(6), C.C.P. Box 18.
- If a child either is ineligible or contests the charge or the child or parent does not give written consent to diversion, the case proceeds with prosecution. Arts. 45.304, 45.310, C.C.P. Box 19.
- Making the determination in this box will either result in a finding of Not Guilty or potentially another opportunity for diversion. Box 20.
- If the answer to the question in Box 20 is No, enter a judgment of Not Guilty. Box 21.
- If the answer to the question in Box 20 is Yes, determine if the child is eligible for diversion. Art. 45.041(a-2), C.C.P. See Box 6. Box 22.
- proceed to sentencing. Art. 45.041(a-2), C.C.P. All options normally available to the judge at this point in the case If the child is ineligible or the child or parent does not accept placement in diversion, find the child guilty and are still available, including deferred disposition. Box 23.
- If the child is eligible, provide the child and parent the opportunity for placement in diversion under Article 45.310 (Diversion by Judge). Art. 45.041(a-2), C.C.P. Box 24.
- If the answer is Yes, go to Box 26. If the answer is No, go to Box 23. Box 25.

Box 26.

enter an adjudication of guilt or a judgment of conviction. Art. 45.041(a-2); Art. 45.310(a)(2), C.C.P. Complete a If the child and parent accept, place the child in diversion under Article 45.310. Art. 45.041(a-2), C.C.P. Do not diversion agreement. Art. 45.308, C.C.P. Then go to Box 10.