

ALEJANDRO GALAVIZ

Mayor

TERESA HOFFMAN

Council Member, Place 1

TONY BOVINICH

Council Member, Place 2



JESSICA KUYKENDALL

Council Member, Place 3

GERONIMO HERNANDEZ

Council Member, Place 4

DREW WILSON

Mayor Pro-Tem/

Council member, Place 5

VENUS REGULAR COUNCIL MEETING

Venus Civic Center

210 S. Walnut Street

Venus, Texas 76084

Monday, February 12, 2024 at 6:30 pm.

Page

1. Call to Order, Roll Call, Invocation, Pledge of Allegiance, Pledge to Texas Flag:

2. Announcements from Mayor:

Cell phones are to be placed on vibrate/silent only. No conversation or comment from the audience is permitted unless specifically called upon by the Mayor. Please remain respectfully quiet.

3. Citizen Public Comment Period:

Citizens may sign up before the meeting begins and will be allowed up to 4 minutes to address the Mayor and Council. The Mayor, Council members and staff members may not respond or converse with speakers during this time. The comments from the speaker must be in the form of a statement. By State law, no questions may be asked or answered for items not appearing on the agenda.

4. Executive Session:

IN ACCORDANCE WITH TEXAS GOVERNMENT CODE, SECTION 551.001, ET SEQ. THE CITY COUNCIL WILL RECESS INTO EXECUTIVE SESSION (CLOSED MEETING) TO DISCUSS THE FOLLOWING: Section's 551.074-Personnel Matters & 551.071-Consultation with Attorney

1. Discussion regarding the appointment, employment, evaluation, reassignment, duties, discipline, resignation or dismissal of a city officer or employee, unless such officer or employee requests a public hearing to wit: City Administrator interviews.
2. Discuss entering into an interlocal agreement with Johnson County ESD for the purchase and financing of a Quint Fire Truck

4.1 Recess into Executive Session:

4.2 Reconvene into Open Session:

5. Consent Agenda:

All matters listed under consent agenda have been previously discussed, require little or no deliberation, or are routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately. Otherwise, approval of the consent agenda authorizes the City Administrator to implement each item in accordance with staff's recommendation.

- | | | |
|-----|--|---------|
| 5.1 | Staff reports: City Administrator, Police Department, Fire Department, and Court.
February 2024 FD Council Report.pptx  January 2024-court.pdf 
January 2024 VPD Report.pptx  City Admin report January 2024.pptx  | 5 - 21 |
| 5.2 | Racial profiling report for the Venus Fire Marshal's Office.
2023 Venus FMO Racial Profiling Analysis.pdf 
2023 Venus FMO Racial Profiling Report.pdf  | 22 - 29 |
| 5.3 | Approval of meeting minutes from City Council regular meeting on January 22, 2024.
City Council - Jan 22 2024 - Minutes - Html  | 30 - 33 |
| 5.4 | Approval of meeting minutes from Special called City Council meeting on January 29, 2024.
Special Called City Council - Jan 29 2024 - Minutes - Html  | 34 - 35 |
| 5.5 | Approval of meeting minutes from Special called City Council meeting on February 5, 2024.
Special Called City Council - Feb 05 2024 - Minutes - Html 
I make a motion to approve/deny the consent agenda. | 36 - 37 |

6. Presentations and Proclamations:

- | | | |
|-----|---|----------|
| 6.1 | Presentation: Racial profiling report for the Venus Police Department. (Gordon)
Venus 2023 Racial Profiling .pdf  | 38 - 109 |
|-----|---|----------|

7. Discussion and Consideration Items:

- | | | |
|-----|---|-----------|
| 7.1 | Discuss and consider a Resolution Ordering a Special Election | 110 - 121 |
|-----|---|-----------|

on May 4, 2024 for the purpose of submitting to the qualified voters, for adoption or rejection, a proposition to discontinue certain land which is part of the municipality, and which is more particularly described by metes and bounds in the attached exhibit “a”; designating location of polling place; ordering notice of election to be given as prescribed by law in connection with such election; authorizing the Mayor to execute election agreements with Ellis county; providing a repealing clause; providing a severability clause and providing for an effective date. (Green)

[Agenda Item Cover sheet- Special election.pdf](#) 

[VENUS RESOLUTION 03-2024-02 Special election 2024.pdf](#) 

[NOt. of special election translated.pdf](#) 

I make a motion to approve/deny Resolution No. 03-2024-02.

- | | | |
|-----|--|-----------|
| 7.2 | Discuss and consider theCPI-U rate adjustment for Frontier Waste as outlined in the current contract.(Groom) | 122 - 142 |
|-----|--|-----------|

[Staff Report - Frontier Rate Increase.docx](#) 

[Copy of CPI 12.27.23.pdf](#) 

[Existing Frontier Waste Contract from 2019.pdf](#) 

[Venus PI 2024.pdf](#) 

[Venus PI letter 04.01.2024.pdf](#) 

I make a motion to approve/deny the rate increase of Frontier Waste Solutions and authorizing the Mayor to execute contract.

- | | | |
|-----|---|-----------|
| 7.3 | Discuss and consider an Ordinance amending FY 2023/2024 budget. (Groom) | 143 - 152 |
|-----|---|-----------|

[Staff Report - 2018 Bond Budget Amendment.docx](#) 

[Venus Existing Debt - Purposes and Current Project Fund Balance.pdf](#) 

[Justification Sheet.pdf](#) 

[Bond Balances in TexPool.pdf](#) 

I make a motion to approve/deny an Ordinance amending FY 2023/2024 budget.

- | | | |
|-----|---|-----------|
| 7.4 | Discuss and consider Incumbency Certificate and Call Back Designee(s) for Disbursements and Payment of Requisitions | 153 - 154 |
|-----|---|-----------|

for Patriot Estates PID Bond Redemption. (Groom)

[Staff Report - Regions Bank PID Form.docx](#) 

[Incumbency and Call Back Designee for Disbursements and Payment of Requisitions.pdf](#) 

I make a motion to approve/deny _____.

8. Adjournment:

The City Council reserves the right to meet in Executive Session closed to the public at any time in the course of this meeting to discuss matters listed on the agenda, pursuant to authorization by the Texas Open Meetings Act TEXAS GOVERNMENT CODE, Chapter 551.071 (Private consultation with attorney for the city), 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), 418.183 (homeland security).

This is to certify that a copy of this Notice of Meeting was posted on the bulletin board at City Hall, 700 W. Hwy 67 Venus, Texas and at a place readily accessible to the general public at all times and to the City's website www.cityofvenus.org, Wednesday, February 7, 2024 on or before 5:30 pm..

Callie Green, TRMC

City Secretary

For more information or a copy of the Open Meetings Act, please contact the Attorney General of Texas at 1-800-252-8011. This building is wheelchair accessible. Any requests for Interpretive Services must be made 48 hours in advance of the scheduled meeting. To make arrangements please call 972-366-3348.

Removed:_____

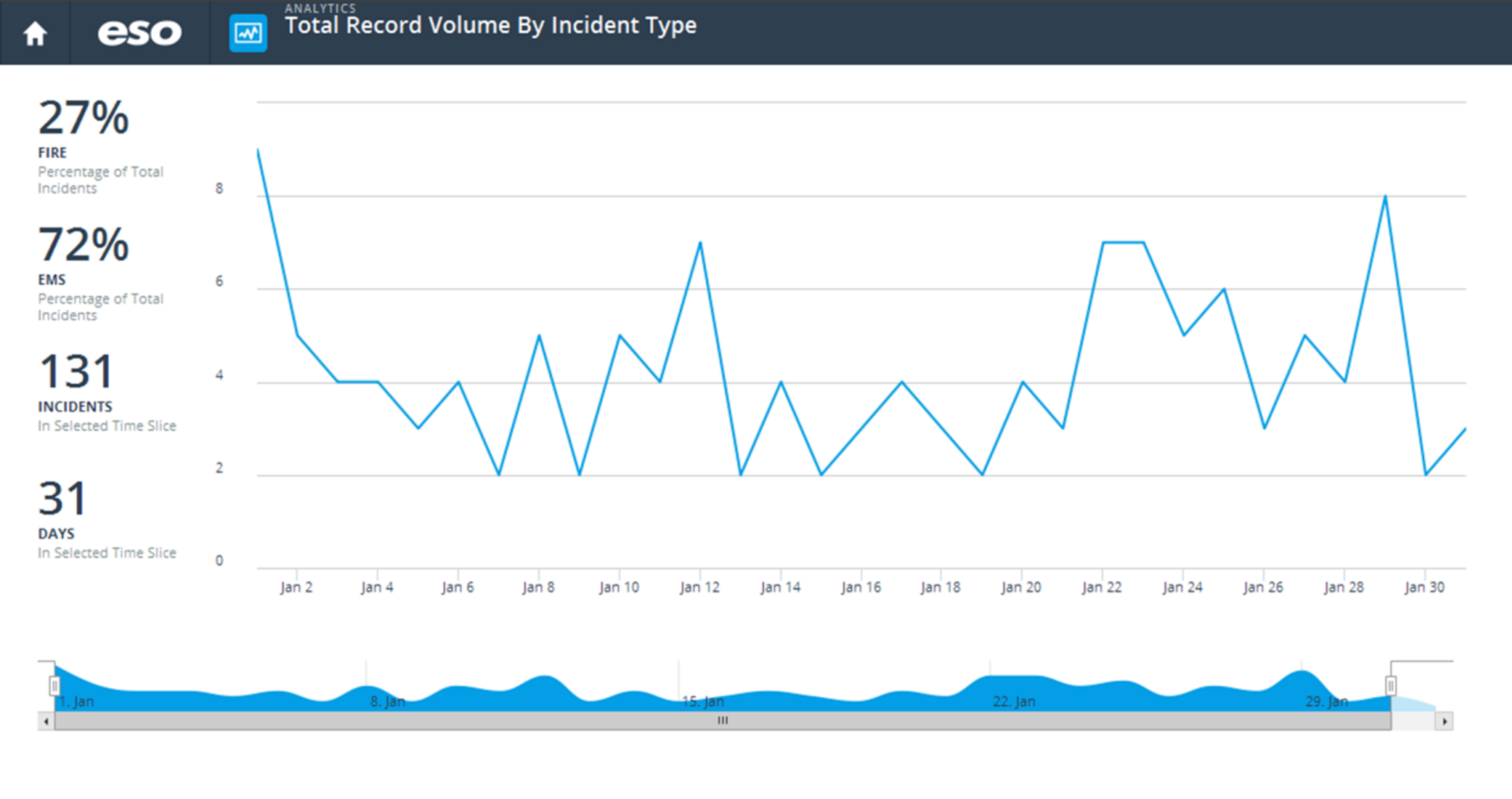
Time:_____



Venus Fire Department

January 2024 Council Report

TOTAL INCIDENTS FOR PREVIOUS MONTH



INCIDENT TYPES FOR PREVIOUS MONTH

Week Ending	1/7/24	1/14/24	1/21/24	1/28/24	2/4/24	Total
(11) Structure Fire		2		1		3
(12) Fire in mobile property used as a fixed structure			1			1
(13) Mobile property (vehicle) fire		1		1		2
(31) Medical assist	9	16	7	18	5	55
(32) Emergency medical service (EMS) incident	18	4	7	8	1	38
(38) Rescue or EMS standby	1					1
(41) Combustible/flammable spills & leaks			1			1
(44) Electrical wiring/equipment problem		1				1
(51) Person in distress	1			1		2
(55) Public service assistance			2	1	3	6
(61) Dispatched and canceled en route	1	2	2	2	2	9
(62) Wrong location, no emergency found				1		1
(63) Controlled burning		1		1		2
(73) System or detector malfunction	1			1	1	3
(74) Unintentional system/detector operation (no fire)		2	1	2	1	6
Total	31	29	21	37	13	131

EVENTS

Fire Marshal had numerous plan reviews and inspections.

Meetings with developers.

Attended Johnson County Emergency Management planning meeting for April 8th total solar eclipse.

Received funding for service agreement from Ellis County ESD #1 this month.

Completed 2023 Racial Profiling report for Fire Marshal's Office. Since the Fire Marshal's Office does not routinely do traffic stops, we file exempt.

Violations by Filed Date...

POLICE DEPARTMENT	58	
TRANSFERRED OUT	0	
MUNICIPAL COURT	0	
Total Filed Violations		58

Completed Cases...

Paid Fine...

POLICE DEPARTMENT	30	
TRANSFERRED OUT	1	
MUNICIPAL COURT	0	
Total Paid Fines		31

Before Judge...

POLICE DEPARTMENT	5	
TRANSFERRED OUT	0	
MUNICIPAL COURT	2	
Total Before Judge		7

Total Completed		38
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Other Completed...

DISMISSED DSC MANDATORY

POLICE DEPARTMENT	4	
TRANSFERRED OUT	0	
MUNICIPAL COURT	0	
Total		4

DISMISSED AFTER DEFERRED DISP.

POLICE DEPARTMENT	9	
TRANSFERRED OUT	1	
MUNICIPAL COURT	0	
Total		10

DISMISSED/PRESENTED INSURANCE

POLICE DEPARTMENT	4	
TRANSFERRED OUT	0	
MUNICIPAL COURT	0	
Total		4

DISMISSED BY JUDGE

POLICE DEPARTMENT	2	
TRANSFERRED OUT	0	
MUNICIPAL COURT	0	
Total		2

COMPLIANCE DISMISSAL

VENUS MUNICIPAL COURT

Report For January 1, 2024 Thru January 31, 2024

Page: 2
FILEDST

POLICE DEPARTMENT	5	
TRANSFERRED OUT	0	
MUNICIPAL COURT	0	
Total		5
DISMISSED BY PROSECUTOR		
POLICE DEPARTMENT	4	
TRANSFERRED OUT	0	
MUNICIPAL COURT	0	
Total		4
MOTION TO DISMISS		
POLICE DEPARTMENT	0	
TRANSFERRED OUT	2	
MUNICIPAL COURT	2	
Total		4
Total Other Completed		33
Grand Total Completed		71
Net Difference Filed/Complete		13-

Warrants...

Issued...		
POLICE DEPARTMENT	0	
TRANSFERRED OUT	0	
MUNICIPAL COURT	0	
Total Violations		0
Total Warrants Issued		0
Cleared...		
POLICE DEPARTMENT	4	
TRANSFERRED OUT	3	
MUNICIPAL COURT	4	
Total Violations		11
Total Warrants Cleared		11
Change in Total Warrants		11-

FINE FINE	\$5,071.69
CCC20 CCC 2020	\$2,640.00
AR ARREST FEE	\$210.00
LMCBSF Local Building Security Fund	\$186.20
LTPDF Local Truancy Prevention Fund	\$190.00
LMCTF Local Court Technology Fund	\$153.80
LMJF Local Municipal Jury Fund	\$4.00
TITLE7 TITLE 7 TRANS CODE FINES	\$664.50
TFC TFC	\$54.00
STF19 STATE TRAFFIC FEE	\$793.10
CS2 CHILD SAFETY FEE	\$50.00

VENUS MUNICIPAL COURT
Report For January 1, 2024 Thru January 31, 2024

Page: 3

FILEDST

DSC DSC ADMIN FEE	\$50.00
WRNTFE WARRANT FEE	\$422.16
CCC04 CONSOLIDATED COURT COST	\$280.00
MCBS MUNICIPAL COURT BUILDING SEC.	\$21.00
SJRF STATE JURY FEE	\$28.00
JFCT2 JUDICIAL FEE - COUNTY	\$37.80
JFCI JUDICIAL FEE - CITY	\$4.20
CTF COURT TECHNOLOGY FUND	\$28.00
IDF Indigent Defense Fee	\$14.00
TPF-C TRUANCY PREVENTION FUND-CITY	\$7.00
TPF-S TRUANCY PREVENTION FUND-STATE	\$7.00
COLAGY COLLECTION AGENCY FEE	\$669.26
TLFTA2 OMNI BASE STATE	\$36.00
TLFTA3 LOCAL OMNI BASE FEE	\$24.00
STF STATE TRAFFIC FEE	\$60.00
CJFS Civil Justice Fee State	\$0.09
CJFC Civil Justice Fee Court	\$0.01
AF2 \$20 Administrative Fee	\$80.00
DEF DEFERRAL FEE	\$50.00
TPRF Time Payment Reimbursement Fee	\$30.00

Total Fees/Fines Paid \$11,865.81

Venus Police Department

January 2024 Council Report



Monthly Stats

	01-2024	% + or -	12-2023	11-2023	3 MONTH AVERAGE
CAD EVENTS	1644	-2%	1674	1636	1651
REPORTS TAKEN	33	-15%	39	47	40
ARRESTS	14	8%	13	16	14
ACCIDENTS WORKED	16	7%	15	12	14
TRAFFIC ASSIGNMENTS	76	9%	70	67	71
TRAFFIC STOPS	223	-19%	275	325	274
CITATIONS ISSUED	58	2%	57	86	67

ARRESTS

DATE	CALL TYPE	NOTES
1/1/2024	Traffic Stop	Man Del CS / Proh Substance in Correctional Facility
1/1/2024	Traffic Stop	Warrant Arrest / Victoria County - DWI
1/3/2024	Traffic Stop	Warrant Arrest / JCSO and Burleson Regional Wrts
1/18/2024	PR Contact	Warrant Arrest JCSO - Dangerous Drugs
1/19/2024	PR Contact	Warrant Arrest JCSO - Assault BI / FV
1/21/2024	Disturbance/Traffic Stop	DWI 2nd
1/23/2024	Traffic Stop	Driving with License Invalid / Prev Conviction
1/24/2024	Susp Vehicle	DWI 2nd
1/27/2024	Traffic Stop	DWI with Child Under 15
1/27/2024	Reckless Driver	DWI 2nd
1/27/2024	Traffic Stop / Susp	DWI / Open Container
1/27/2024	Welfare Check Veh	DWI 2nd / UCW
1/28/2024	Traffic Stop	DUI minor / NO DL / Fleeing / MIP alcohol
1/31/2024	Criminal Trespass	Warrant JCSO - Adjudication of supervision driving

Notable Responses

Date	Call Type	Status	Notes
1/1/2024	Traffic Stop	Arrested	Case pending / waiting on lab results
1/3/2024	Agency Assist	Closed	Assisted with a sexual assault child that occurred in MO
1/4/2024	Traffic Stop	Closed	Female with dementia - Officers worked to find family and was able to return female to her family
1/4/2024	Hit and Run	Active Investigation	Need to get suspect identified
1/6/2024	AADW	Active Investigation	Pending cooperation from victim
1/13/2024	Theft	Pending	Water truck stolen from construction site as well as parts of a fire hydrant
1/19/2024	Theft of Service	Pending	One construction company stealing from another
1/22/2024	Crim Trespass Habitation	Active Investigation	Possibly Ex-Husband
1/31/2024	FD Assist	Active Investigation	Possible overdose / Pending autopsy

Community Involvement

The Venus Police Department ate lunch with the children at the primary school.





City Administration

Monthly Report

December 2023

Development

City Staff met with six plus developers on projects in various stages of the process. Several of these are new projects and we will update council as we gather more information.

Staff toured a golf facility and met with developers who are interested in proposing a project on city land that is in Brahma Ranch I subdivision.

Staff met with all property owners related to the Venus Parkway project. Staff is seeking to determine a route that is suitable to all stakeholders and the citizens of Venus.

Various Updates

- 2022 Audit still in works. No ETA currently, but our contractor is continuing the work to get all documents to the auditors. Will update soon with an ETA and then begin immediate work on 2023 audit
- Water/Sewer rate study – Several meetings with the company and the engineer that was hired to provide the study. Capital projects are being reevaluated and an update on timing will be available in a few weeks



Trash Change

- Front Office Staff stuffed and mailed 1850+ envelopes to communicate trash pickup change
- All residential and commercial roll out customers are picked up on Thursdays starting January 3rd



Community

- City Staff attended and assisted with Christmas on the Square event. Big Shout Out to the Venus Chamber and Public Works for their efforts
- Interim City Admin and City Secretary both read to children on different days at the Venus Primary School
- City Staff attended a luncheon at the Venus Retirement Village. We loved the food, the gift exchange, and most importantly, the people!
- City Staff held their annual staff Christmas Party. Lots of Food and Fun

Racial Profiling Analysis Report

VENUS FIRE MARSHALS OFFICE

01. Total Traffic Stops:	0
02. Location of Stop:	
a. City Street	0
b. US Highway	0
c. County Road	0
d. State Highway	0
e. Private Property or Other	0
03. Was Race known prior to Stop:	
a. NO	0
b. YES	0
04. Race or Ethnicity:	
a. Alaska/ Native American/ Indian	0
b. Asian/ Pacific Islander	0
c. Black	0
d. White	0
e. Hispanic/ Latino	0
05. Gender:	
a. Female	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
b. Male	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
06. Reason for Stop:	
a. Violation of Law	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0

Racial Profiling Analysis Report

iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
b. Pre-Existing Knowledge	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
c. Moving Traffic Violation	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
d. Vehicle Traffic Violation	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
07. Was a Search Conducted:	
a. NO	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
b. YES	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
08. Reason for Search:	
a. Consent	0

Racial Profiling Analysis Report

i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
b. Contraband in Plain View	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
c. Probable Cause	0
ii. Alaska/ Native American/ Indian	0
i. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
d. Inventory	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
e. Incident to Arrest	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
09. Was Contraband Discovered:	
YES	0
i. Alaska/ Native American/ Indian	0
Finding resulted in arrest - YES	0
Finding resulted in arrest - NO	0
ii. Asian/ Pacific Islander	0
Finding resulted in arrest - YES	0
Finding resulted in arrest - NO	0
iii. Black	0

Racial Profiling Analysis Report

Finding resulted in arrest - YES	0
Finding resulted in arrest - NO	0
iv. White	0
Finding resulted in arrest - YES	0
Finding resulted in arrest - NO	0
v. Hispanic/ Latino	0
Finding resulted in arrest - YES	0
Finding resulted in arrest - NO	0
b. NO	0
i. Alaska/ Native American/ Indian	0
i. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
10. Description of Contraband:	
a. Drugs	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
b. Currency	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
c. Weapons	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
d. Alcohol	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0

Racial Profiling Analysis Report

v. Hispanic/ Latino	0
e. Stolen Property	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
f. Other	0
i. Alaska/ Native American/ Indian	0
i. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
11. Result of Stop:	
a. Verbal Warning	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
b. Written Warning	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
c. Citation	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
d. Written Warning and Arrest	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0

Racial Profiling Analysis Report

e. Citation and Arrest	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
f. Arrest	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
12. Arrest Based On:	
a. Violation of Penal Code	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
b. Violation of Traffic Law	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
c. Violation of City Ordinance	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
d. Outstanding Warrant	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0

Racial Profiling Analysis Report

13. Was Physical Force Used:	
a. NO	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
b. YES	0
i. Alaska/ Native American/ Indian	0
ii. Asian/ Pacific Islander	0
iii. Black	0
iv. White	0
v. Hispanic/ Latino	0
b 1. YES: Physical Force Resulting in Bodily Injury to Suspect	0
b 2. YES: Physical Force Resulting in Bodily Injury to Officer	0
b 3. YES: Physical Force Resulting in Bodily Injury to Both	0
14. Total Number of Racial Profiling Complaints Received:	
	0

REPORT DATE COMPILED 01/02/2024

Racial Profiling Report | Exempt

Agency Name: VENUS FIRE MARSHALS OFFICE
Reporting Date: 01/02/2024
TCOLE Agency Number: 251310

Chief Administrator: RICHARD L. ALLEN

Agency Contact Information:
Phone: (469) 716-4978
Email: rallen@cityofvenus.org

Mailing Address:
700 West Hwy 67
VENUS, TX 76084

FULL EXEMPTION RACIAL PROFILING REPORT

Article 2.132 CCP Law Enforcement Policy on Racial Profiling a.) In this article:

1.) "Law enforcement agency" means an agency of the state, or of a county, municipality , or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

I certify it is not the policy of this agency to make traffic stops in the routine performance of the officers' official duties.

Executed by: RICHARD L. ALLEN
Fire Marshal

Date: 01/02/2024

Submitted electronically to the



The Texas Commission on Law Enforcement



City Council - Minutes

Monday, January 22, 2024 at 6:30 PM

Venus Civic Center

1. Call to Order, Roll Call, Invocation, Pledge of Allegiance, Pledge to Texas Flag:

Mayor Galaviz called the meeting to order at 6:33pm, the City Attorney, Halla gave the Invocation, and all lead the Pledge of Allegiance and Pledge to the Texas Flag.

Councilmembers present: Alejandro Galaviz, Teresa Hoffman, Geronimo Hernandez, and Drew Wilson.

Councilmembers absent: Tony Bovinich and Jessica Kuykendall.

Staff Present: Callie Green, Melissa Westen, City Attorney, and Johnny Coker.

2. Announcements from Mayor:

Cell phones are to be placed on vibrate/silent only. No conversation or comment from the audience is permitted unless specifically called upon by the Mayor. Please remain respectfully quiet. Calling Election workers for the May 4, 2024 Election. Needing at least three to four workers. One judge and three clerks. The Judge is paid \$14 Hour and clerks \$13 hour. Please email or call the City Secretary for more information. Last day to file for Place on the General Ballot is Friday, February 16, 2024 at 5:00 PM. The Secretary's office will be open that Friday. All other business days, office hours are Monday-Thursday 7:30am - 5:30pm. Councilmembers Bovinich and Kuykendall are under the weather and wish them well soon and they will be missed this evening.

3. Citizen Public Comment Period:

No public comments.

4. Consent Agenda:

All matters listed under consent agenda have been previously discussed, require little or no deliberation, or are routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately. Otherwise, approval of the consent agenda authorizes the City Administrator to implement each item in accordance with staff's recommendation.

- 4.1 Approval of meeting minutes for City Council regular meeting on January 8, 2024.

[City Council - Jan 08 2024 - Minutes - Html](#) 

[City Council - Jan 08 2024 - Minutes - Html](#) 

- 4.2 Ratifying the payment of bills for the month of December 2023.

[December 2023 Financial Dashboard.pdf](#) 

[December 2023 Credit Card Charges.pdf](#) 

[December 2023 Disbursement Report.pdf](#) 

I make a motion to approve the consent agenda as presented.

Moved by: Drew Wilson

Seconded by: Teresa Hoffman

For: Unanimous. Motion carried 3-0-0.

5. Discussion and Consideration Items:

- 5.1 Discuss and consider Ordering a General Election on May 4, 2024, for the purpose of electing three (3) City Councilmembers (Places 3, 4, and 5) at-large, designation location of polling places; ordering Notice of Election to be given as prescribed by law in connection with such election; authorizing execution of joint election agreement; and providing for an effective date. (Green)

[Agenda Item Cover sheet- General election.pdf](#) 

[VENUS RESOLUTION_general election 2024.pdf](#) 

[Notice of Gen. Election 24.pdf](#) 

I make a motion to approve Resolution No. 02-2024-01

Moved by: Drew Wilson

Seconded by: Teresa Hoffman

For: Unanimous. Motion carried 3-0-0.

- 5.2 Discuss and consider entering into an agreement with Venus Independent School District for joint election services. (Green)

[Agenda Item Cover sheet- Joint contract with ISD.pdf](#) 

[JOINT ELECTION AGREEMENT 2024.pdf](#) 

I make a motion to approve entering into an agreement with Venus Independent School District for joint election service's and authorizing Mayor to execute agreement.

Moved by: Drew Wilson

Seconded by: Teresa Hoffman

For: Unanimous. Motion carried 3-0-0.

- 5.3 Discuss and consider appointing a qualified individual to the Venus Community Service Development Corporation to fill a vacancy. (Green)

[Agenda Item Cover sheet- 4B Vacancy.pdf](#) 

Councilmember Hoffman nominated Jira Sansom.

Councilmember Wilson nominated Ray Jackman.

I make a motion to appoint Jira Sansom to the Venus Community Service Development Corporation for an unexpired term and pending outcome of background check.

Moved by: Teresa Hoffman

Seconded by: Geronimo Hernandez

For: Teresa Hoffman and Geronimo Hernandez.

Against: Drew Wilson.

Motion carried 2-1-0.

6. Executive Session:

IN ACCORDANCE WITH TEXAS GOVERNMENT CODE, SECTION 551.001, ET SEQ. THE CITY COUNCIL WILL RECESS INTO EXECUTIVE SESSION (CLOSED MEETING) TO DISCUSS THE FOLLOWING: Section 551.074- Personnel Matters

1. Discussion regarding the appointment, employment, evaluation, reassignment, duties, discipline, resignation or dismissal of a city officer or employee, unless such officer or employee requests a public hearing, to wit: City Administrator.

6.1 Recess into Executive Session: At 6:45pm

6.2 Reconvene into Open Session: At 8:13pm

Any action on above listed Executive Session.

No action taken on above listed executive session.

7. Adjournment:

Mayor Galaviz adjourned the meeting at 8:13 pm.

Mayor

City Secretary



Special Called City Council - Minutes

Monday, January 29, 2024 at 6:00 PM

Venus Civic Center

1. Call to Order, Roll Call, Invocation, Pledge of Allegiance, Pledge to Texas Flag:

Mayor Galaviz called the meeting to order at 6:01 PM, Attorney Halla gave the Invocation, and all lead the Pledge of Allegiance and Pledge to the Texas Flag.

Councilmembers present: Alejandro Galaviz, Teresa Hoffman, Tony Bovinich, Jessica Kuykendall, and Geronimo Hernandez. Drew Wilson Arrived at 6:28 PM.

Staff present: James Groom, Callie Green, and City Attorney.

2. Announcements from Mayor:

Cell phones are to be placed on vibrate/silent only. No conversation or comment from the audience is permitted unless specifically called upon by the Mayor. Please remain respectfully quiet.

3. Citizen Public Comment Period:

No public comments.

4. Executive Session:

IN ACCORDANCE WITH TEXAS GOVERNMENT CODE, SECTION 551.001, ET SEQ. THE CITY COUNCIL WILL RECESS INTO EXECUTIVE SESSION (CLOSED MEETING) TO DISCUSS THE FOLLOWING: Section 551.074- Personnel Matters

1. Discussion regarding the appointment, employment, evaluation, reassignment, duties, discipline, resignation or dismissal of a city officer or employee, unless such officer or employee requests a public hearing, to wit: City Administrator interviews.

- 4.1 Recess into Executive Session: At 6:04 PM.
- 4.2 Reconvene into Open Session: At 10:49 PM
Any action on above listed Executive Session.
No action taken on above listed Executive Session.

5. Adjournment:

Mayor Galaviz adjourned the meeting at 10:49 PM.

Mayor

City Secretary



Special Called City Council -Minutes

Monday, February 5, 2024 at 6:00 PM

Venus Civic Center

1. Call to Order, Roll Call, Invocation, Pledge of Allegiance, Pledge to Texas Flag:

Mayor Galaviz called the meeting to order at 6:00 PM, Chief Allen gave the Invocation, and all lead the Pledge of Allegiance and Pledge to the Texas Flag.

Council members present: Alejandro Galaviz, Teresa Hoffman, Tony Bovinich, Geronimo Hernandez, Drew Wilson, and Jessica Kuykendall arrived at 6:07 PM.

Staff present: James Groom, Callie Green, Chief Allen, and City Attorney.

2. Announcements from Mayor:

No Mayor comments.

3. Citizen Public Comment Period:

No public comments.

4. Executive Session:

IN ACCORDANCE WITH TEXAS GOVERNMENT CODE, SECTION 551.001, ET SEQ. THE CITY COUNCIL WILL RECESS INTO EXECUTIVE SESSION (CLOSED MEETING) TO DISCUSS THE FOLLOWING: Section 551.074- Personnel Matters

1. Discussion regarding the appointment, employment, evaluation, reassignment, duties, discipline, resignation or dismissal of a city officer or employee, unless such officer or employee requests a public hearing, to wit: City Administrator interviews.
2. Discussion regarding the appointment, employment, evaluation, reassignment, duties, discipline, resignation or dismissal of a city

- officer or employee, unless such officer or employee requests a public hearing, to wit: Interim City Administrator annual review.
3. Discussion regarding the appointment, employment, evaluation, reassignment, duties, discipline, resignation or dismissal of a city officer or employee, unless such officer or employee requests a public hearing, to wit: City Secretary annual review.
 4. Discussion regarding the appointment, employment, evaluation, reassignment, duties, discipline, resignation or dismissal of a city officer or employee, unless such officer or employee requests a public hearing, to wit: Fire Chief annual review.
 5. Discussion regarding the appointment, employment, evaluation, reassignment, duties, discipline, resignation or dismissal of a city officer or employee, unless such officer or employee requests a public hearing, to wit: City Attorney annual review.
- 4.1. Recess into Executive Session: At 6:03 PM.
 - 4.2. Reconvene into Open Session: At 9:19 PM.
Any action on above listed Executive Session.
No action taken on above listed Executive Sessions.

5. Adjournment:

Mayor Galaviz adjourned the meeting at 9:19 PM.

Mayor

City Secretary

VENUS POLICE DEPARTMENT

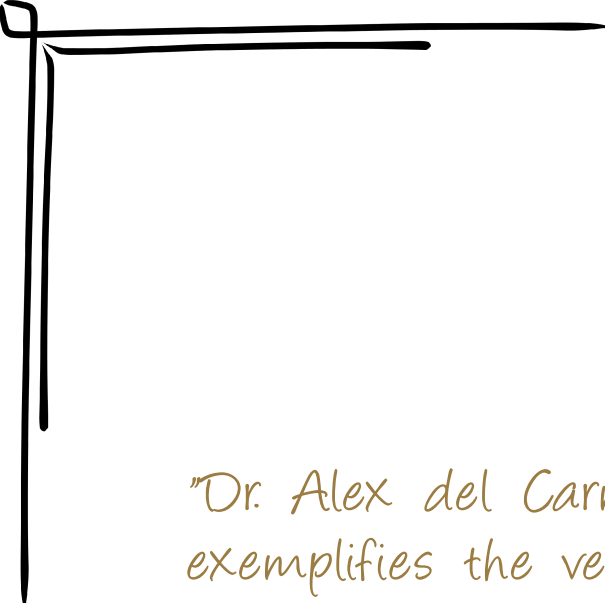


2023 RACIAL PROFILING REPORT



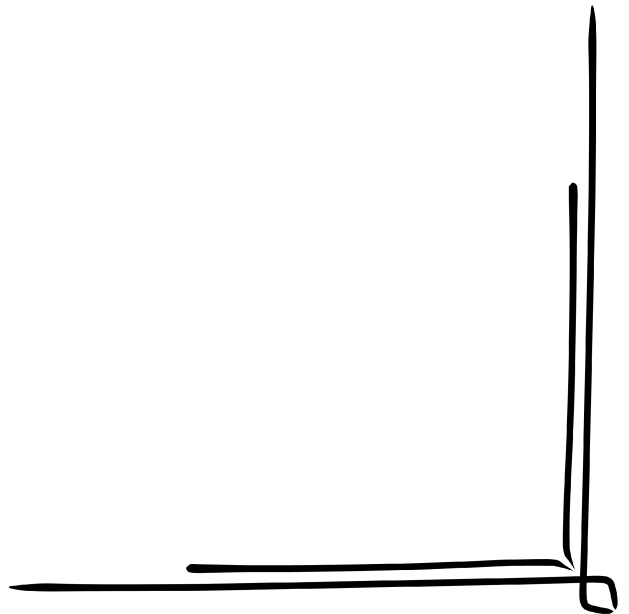
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LAW ENFORCEMENT EXPERTS



"Dr. Alex del Carmen's work on racial profiling exemplifies the very best of the Sandra Bland Act, named after my daughter. My daughter's pledge to fight for injustice is best represented in the high quality of Dr. del Carmen's reports which include, as required by law, the data analysis, audits, findings and recommendations. I commend the agencies that work with him as it is clear that they have embraced transparency and adherence to the law."

-Quote by Geneva Reed (Mother of Sandra Bland)



January 22, 2024

Venus City Council
P.O. Box 380
Venus, TX 76084

Dear Distinguished Members of the City Council,

In 2001 the Texas Legislature, with the intent of addressing the issue of racial profiling in policing, enacted the Texas Racial Profiling Law. During the last calendar year, the Venus Police Department, in accordance with the law, has collected and reported traffic and motor vehicle related contact data for the purpose of identifying and addressing (if necessary) areas of concern regarding racial profiling practices. In the 2009 Texas legislative session, the Racial Profiling Law was modified and additional requirements were implemented. Further, in 2017 the Sandra Bland Act was passed and signed into law (along with HB 3051, which introduced new racial and ethnic designations). The Sandra Bland Law currently requires that law enforcement agencies in the state collect additional data and provide a more detailed analysis. All of these requirements have been met by the Venus Police Department and are included in this report.



In this report, you will find three sections with information on motor vehicle-related contacts. In addition, when appropriate, documentation is included which demonstrates the manner in which the Venus Police Department has complied with the Texas Racial Profiling Law. In section one, you will find the table of contents. Section two documents compliance by the Venus Police Department relevant to the requirements established in the Texas Racial Profiling Law. That is, you will find documents relevant to the training of all police personnel on racial profiling prevention and the institutionalization of the compliment and complaint processes, as required by law.

Finally, section three contains statistical data relevant to contacts (as defined by the law) which were made during the course of motor vehicle stops that took place between 1/1/23 and 12/31/23. Further, this section contains the Tier 2 form, which is required to be submitted to this particular organization and the law enforcement agency's local governing authority by March 1 of each year. The data in this report has been analyzed and compared to information derived from the U.S. Census Bureau's Fair Roads Standard. The final analysis and recommendations are also included in this report.

In the last section of the report, you will find the original draft of the Texas Racial Profiling Law, SB1074, as well as the Sandra Bland Act (current law). Also in this section, a list of requirements relevant to the Racial Profiling Law, as established by TCOLE (Texas Commission on Law Enforcement), is included. The findings in this report support the Venus Police Department's commitment to comply with the Texas Racial Profiling Law.

Sincerely,

Alex del Carmen, Ph.D.

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Public Education on Responding to Compliments and Complaints

Informing the Public on the Process of Filing a Compliment or Complaint with the Venus Police Department

The Texas Racial Profiling Law requires that police agencies provide information to the public regarding the manner in which to file a compliment or racial profiling complaint. In an effort to comply with this particular component, the Venus Police Department launched an educational campaign aimed at informing the public on issues relevant to the racial profiling complaint process.

The police department made available, in the lobby area and on its web site, information relevant to filing a compliment and complaint on a racial profiling violation by a Venus Police Officer. In addition, each time an officer issues a citation, ticket or warning, information on how to file a compliment or complaint is given to the individual cited. This information is in the form of a web address (including in the document issued to the citizen), which has instructions and details specifics related to the compliment or complaint processes.

It is believed that through these efforts, the community has been properly informed of the new policies and the complaint processes relevant to racial profiling.

All Venus Police Officers have been instructed, as specified in the Texas Racial Profiling Law, to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements. To date, all sworn officers of the Venus Police Department have completed the TCOLE basic training on racial profiling. The main outline used to train the officers of Venus has been included in this report.

It is important to recognize that the Chief of the Venus Police Department has also met the training requirements, as specified by the Texas Racial Profiling Law, in the completion of the LEMIT program on racial profiling. The satisfactory completion of the racial profiling training by the sworn personnel of the Venus Police Department fulfills the training requirement as specified in the Education Code (96.641) of the Texas Racial Profiling Law.



Racial Profiling Course 3256

Texas Commission on Law Enforcement

September 2001

Racial Profiling 3256

Instructor's Note:

You may wish to teach this course in conjunction with Asset Forfeiture 3255 because of the related subject matter and applicability of the courses. If this course is taught in conjunction with Asset Forfeiture, you may report it under Combined Profiling and Forfeiture 3257 to reduce data entry.

Abstract

This instructor guide is designed to meet the educational requirement for racial profiling established by legislative mandate: 77R-SB1074.

Target Population: Licensed law enforcement personnel in Texas

Prerequisites: Experience as a law enforcement officer

Length of Course: A suggested instructional time of 4 hours

Material Requirements: Overhead projector, chalkboard and/or flip charts, video tape player, handouts, practical exercises, and demonstrations

Instructor Qualifications: Instructors should be very knowledgeable about traffic stop procedures and law enforcement issues

Evaluation Process and Procedures

An examination should be given. The instructor may decide upon the nature and content of the examination. It must, however, sufficiently demonstrate the mastery of the subject content by the student.

Reference Materials

Reference materials are located at the end of the course. An electronic copy of this instructor guide may be downloaded from our web site at <http://www.tcleose.state.tx.us>.

Racial Profiling 3256

1.0 RACIAL PROFILING AND THE LAW

1.1 UNIT GOAL: The student will be able to identify the legal aspects of racial profiling.

1.1.1 LEARNING OBJECTIVE: The student will be able to identify the legislative requirements placed upon peace officers and law enforcement agencies regarding racial profiling.

Racial Profiling Requirements:

Racial profiling CCP 3.05

Racial profiling prohibited CCP 2.131

Law enforcement policy on racial profiling CCP 2.132

Reports required for traffic and pedestrian stops CCP 2.133

Liability CCP 2.136

Racial profiling education for police chiefs Education Code 96.641

Training program Occupations Code 1701.253

Training required for intermediate certificate Occupations Code 1701.402

Definition of "race or ethnicity" for form Transportation Code 543.202

A. Written departmental policies

1. Definition of what constitutes racial profiling
2. Prohibition of racial profiling
3. Complaint process
4. Public education
5. Corrective action
6. Collection of traffic-stop statistics
7. Annual reports

B. Not prima facie evidence

C. Feasibility of use of video equipment

D. Data does not identify officer

E. Copy of complaint-related video evidence to officer in question

F. Vehicle stop report

1. Physical description of detainees: gender, race or ethnicity
2. Alleged violation
3. Consent to search
4. Contraband
5. Facts supporting probable cause
6. Arrest
7. Warning or citation issued

G. Compilation and analysis of data

H. Exemption from reporting – audio/video equipment

I. Officer non-liability

J. Funding

K. Required training in racial profiling

1. Police chiefs
2. All holders of intermediate certificates and/or two-year-old licenses as of 09/01/2001 (training to be completed no later than 09/01/2003) – see legislation 77R-SB1074



1.1.2 LEARNING OBJECTIVE: The student will become familiar with Supreme Court decisions and other court decisions involving appropriate actions in traffic stops.

A. Whren v. United States, 517 U.S. 806, 116 S.Ct. 1769 (1996)

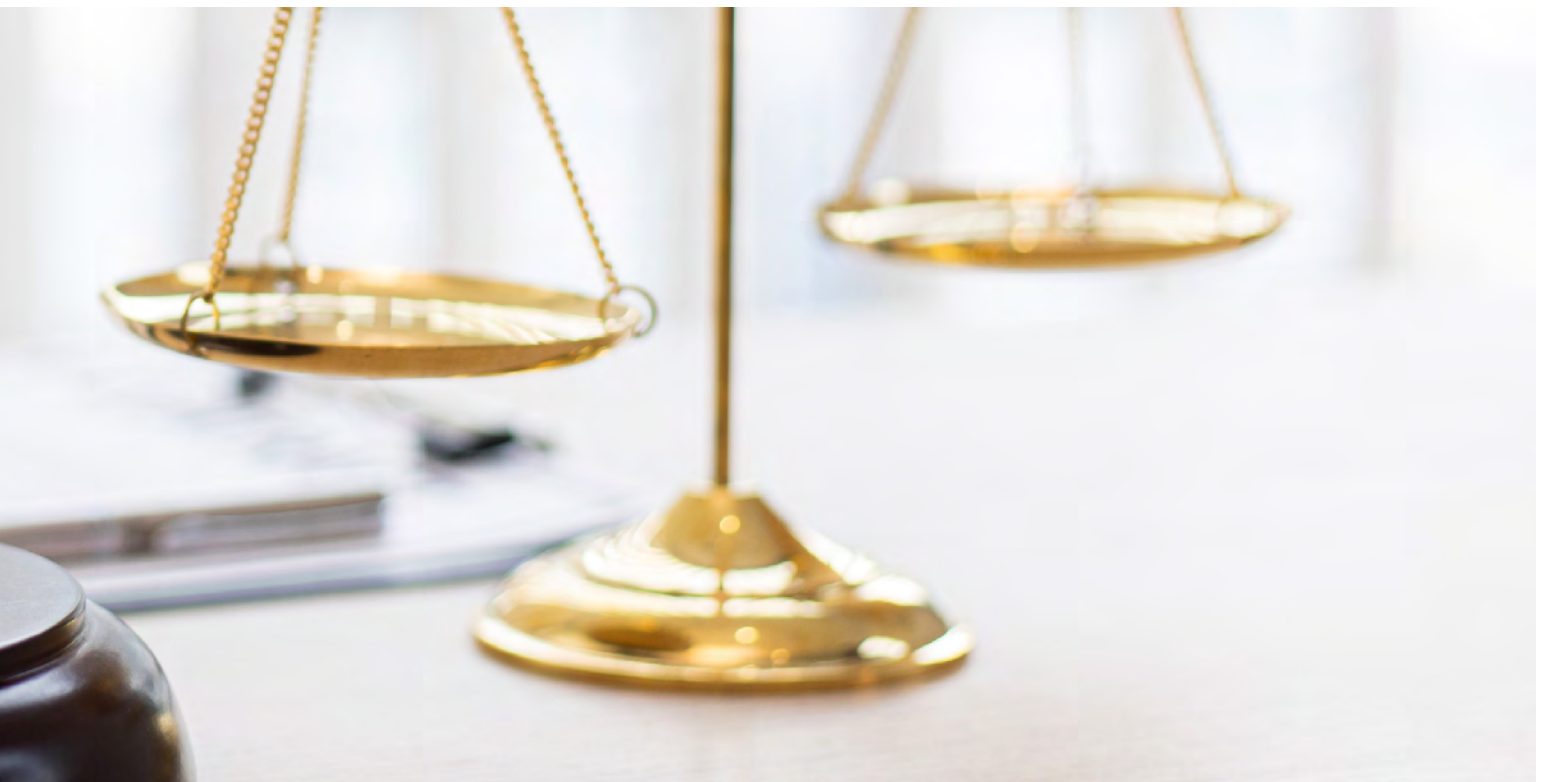
1. Motor vehicle search exemption
2. Traffic violation acceptable as pretext for further investigation
3. Selective enforcement can be challenged

B. Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968)

1. Stop & Frisk doctrine
2. Stopping and briefly detaining a person
3. Frisk and pat down

C. Other cases

1. Pennsylvania v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)
2. Maryland v. Wilson, 117 S.Ct. 882 (1997)
3. Graham v. State, 119 MdApp 444, 705 A.2d 82 (1998)
4. Pryor v. State, 122 Md.App. 671 (1997) cert. denied 352 Md. 312, 721 A.2d 990 (1998)
5. Ferris v. State, 355 Md. 356, 735 A.2d 491 (1999)
6. New York v. Belton, 453 U.S. 454 (1981)



2.0 RACIAL PROFILING AND THE COMMUNITY

2.1 UNIT GOAL: The student will be able to identify logical and social arguments against racial profiling.

2.1.1 LEARNING OBJECTIVE: The student will be able to identify logical and social arguments against racial profiling.

- A. There are appropriate reasons for unusual traffic stops (suspicious behavior, the officer's intuition, MOs, etc.), but police work must stop short of cultural stereotyping and racism.
- B. Racial profiling would result in criminal arrests, but only because it would target all members of a race randomly – the minor benefits would be far outweighed by the distrust and anger towards law enforcement by minorities and the public as a whole .
- C. Racial profiling is self-fulfilling bad logic: if you believed that minorities committed more crimes, then you might look for more minority criminals, and find them in disproportionate numbers.
- D. Inappropriate traffic stops generate suspicion and antagonism towards officers and make future stops more volatile – a racially-based stop today can throw suspicion on tomorrow's legitimate stop.
- E. By focusing on race, you would not only be harassing innocent citizens, but overlooking criminals of all races and backgrounds – it is a waste of law enforcement resources.

3.0 RACIAL PROFILING VERSUS REASONABLE SUSPICION

3.1 UNIT GOAL: The student will be able to identify the elements of both inappropriate and appropriate traffic stops.

3.1.1 LEARNING OBJECTIVE: The student will be able to identify elements of a racially motivated traffic stop.

A. Most race-based complaints come from vehicle stops, often since race is used as an inappropriate substitute for drug courier profile elements

B. "DWB" – "Driving While Black" – a nickname for the public perception that a Black person may be stopped solely because of their race (especially with the suspicion that they are a drug courier), often extended to other minority groups or activities as well ("Driving While Brown," "Flying While Black," etc.)

C. A typical traffic stop resulting from racial profiling

1. The vehicle is stopped on the basis of a minor or contrived traffic violation which is used as a pretext for closer inspection of the vehicle, driver, and passengers
2. The driver and passengers are questioned about things that do not relate to the traffic violation
3. The driver and passengers are ordered out of the vehicle
4. The officers visually check all observable parts of the vehicle
5. The officers proceed on the assumption that drug courier work is involved by detaining the driver and passengers by the roadside
6. The driver is asked to consent to a vehicle search – if the driver refuses, the officers use other procedures (waiting on a canine unit, criminal record checks, license-plate checks, etc.), and intimidate the driver (with the threat of detaining him/her, obtaining a warrant, etc.)



3.1.2 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which would constitute reasonable suspicion of drug courier activity.

A. Drug courier profile (adapted from a profile developed by the DEA)

1. Driver is nervous or anxious beyond the ordinary anxiety and cultural communication styles
2. Signs of long-term driving (driver is unshaven, has empty food containers, etc.)
3. Vehicle is rented
4. Driver is a young male, 20-35
5. No visible luggage, even though driver is traveling
6. Driver was over-reckless or over-cautious in driving and responding to signals
7. Use of air fresheners

B. Drug courier activity indicators by themselves are usually not sufficient to justify a stop

3.1.3 LEARNING OBJECTIVE: The student will be able to identify elements of a traffic stop which could constitute reasonable suspicion of criminal activity.

A. Thinking about the totality of circumstances in a vehicle stop

B. Vehicle exterior

1. Non-standard repainting (esp. on a new vehicle)
2. Signs of hidden cargo (heavy weight in trunk, windows do not roll down, etc.)
3. Unusual license plate suggesting a switch (dirty plate, bugs on back plate, etc.)
4. Unusual circumstances (pulling a camper at night, kids' bikes with no kids, etc.)

C. Pre-stop indicators

1. Not consistent with traffic flow
2. Driver is overly cautious, or driver/passengers repeatedly look at police car
3. Driver begins using a car- or cell-phone when signaled to stop
4. Unusual pull-over behavior (ignores signals, hesitates, pulls onto new street, moves objects in car, etc.)

D. Vehicle interior

1. Rear seat or interior panels have been opened, there are tools or spare tire, etc.
2. Inconsistent items (anti-theft club with a rental, unexpected luggage, etc.)

Resources

Proactive Field Stops Training Unit – Instructor's Guide, Maryland Police and Correctional Training Commissions, 2001. (See Appendix A.)

Web address for legislation 77R-SB1074: <http://tlo2.tlc.state.tx.us/tlo/77r/billtext/SB01074F.htm>

Report on Compliments and Racial Profiling Complaints



Report on Complaints

The following table contains data regarding officers that have been the subject of a complaint, during the time period of 1/1/23-12/31/23 based on allegations outlining possible violations related to the Texas Racial Profiling Law. The final disposition of the case is also included.



A check above indicates that the Venus Police Department has not received any complaints, on any members of its police services, for having violated the Texas Racial Profiling Law during the time period of 1/1/23-12/31/23.

Complaints Filed for Possible Violations of The Texas Racial Profiling Law

Complaint Number	Alleged Violation	Disposition of the Case

Additional Comments:

Tables Illustrating Motor Vehicle-Related Contacts

TIER 2 DATA

TOTAL STOPS: 4,100

STREET ADDRESS OR APPROXIMATE LOCATION OF STOP.

City Street	882
US Highway	2,640
State Highway	338
County Road	204
Private Property	36

WAS RACE OR ETHNICITY KNOWN PRIOR TO STOP?

Yes	50
No	4,050

RACE OR ETHNICITY

Alaska Native/American Indian	24
Asian/Pacific Islander	66
Black	532
White	2,137
Hispanic/Latino	1,341

GENDER

Female Total: 1,309

Alaska Native/American Indian	4
Asian/Pacific Islander	26
Black	190
White	715
Hispanic/Latino	374

Male Total: 2,791

Alaska Native/American Indian	20
Asian/Pacific Islander	40
Black	342
White	1,422
Hispanic/Latino	967

REASON FOR STOP?

Violation of Law Total: 297

Alaska Native/American Indian	0
Asian/Pacific Islander	2
Black	62
White	127
Hispanic/Latino	106

Pre-existing Knowledge Total: 49

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	10
White	21
Hispanic/Latino	18

Moving Traffic Violation Total: 2,565

Alaska Native/American Indian	17
Asian/Pacific Islander	46
Black	307
White	1,391
Hispanic/Latino	804

TIER 2 DATA

Vehicle Traffic Violation Total: 1,189

Alaska Native/American Indian	7
Asian/Pacific Islander	18
Black	153
White	598
Hispanic/Latino	413

Contraband (in plain view) Total: 15

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	3
Hispanic/Latino	12

WAS SEARCH CONDUCTED?

	YES	NO
Alaska Native/American Indian	0	24
Asian/Pacific Islander	1	65
Black	12	520
White	33	2,104
Hispanic/Latino	41	1,300
TOTAL	87	4,013

Probable Cause Total: 39

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	10
White	15
Hispanic/Latino	14

Inventory Total: 11

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	1
White	3
Hispanic/Latino	7

REASON FOR SEARCH?

Consent Total: 11

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	1
White	7
Hispanic/Latino	3

Incident to Arrest Total: 11

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	0
White	5
Hispanic/Latino	5

TIER 2 DATA

WAS CONTRABAND DISCOVERED?

	YES	NO
Alaska Native/American Indian	0	0
Asian/Pacific Islander	1	0
Black	10	2
White	20	13
Hispanic/Latino	30	11
TOTAL	61	26

Did the finding result in arrest?

	YES	NO
Alaska Native/American Indian	0	0
Asian/Pacific Islander	0	1
Black	0	10
White	3	17
Hispanic/Latino	3	27
TOTAL	6	55

DESCRIPTION OF CONTRABAND

Drugs Total: 40

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	8
White	17
Hispanic/Latino	14

Currency Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

Weapons Total: 3

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	1
White	1
Hispanic/Latino	1

Alcohol Total: 26

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	3
White	4
Hispanic/Latino	19

TIER 2 DATA

Stolen Property Total: 2

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	2

Other Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

RESULT OF THE STOP

Verbal Warning Total: 1,527

Alaska Native/American Indian	10
Asian/Pacific Islander	25
Black	220
White	784
Hispanic/Latino	488

Written Warning Total: 1,599

Alaska Native/American Indian	9
Asian/Pacific Islander	27
Black	190
White	951
Hispanic/Latino	422

Citation Total: 934

Alaska Native/American Indian	5
Asian/Pacific Islander	13
Black	119
White	390
Hispanic/Latino	407

Written Warning and Arrest Total: 10

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	1
White	2
Hispanic/Latino	6

Citation and Arrest Total: 15

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	1
White	5
Hispanic/Latino	9

Arrest Total: 15

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	1
White	5
Hispanic/Latino	9

TIER 2 DATA

ARREST BASED ON

Violation of Penal Code Total: 29

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	1
White	8
Hispanic/Latino	20

Violation of Traffic Law Total: 5

Alaska Native/American Indian	0
Asian/Pacific Islander	1
Black	0
White	1
Hispanic/Latino	3

Violation of City Ordinance Total: 0

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	0
White	0
Hispanic/Latino	0

Outstanding Warrant Total: 6

Alaska Native/American Indian	0
Asian/Pacific Islander	0
Black	2
White	3
Hispanic/Latino	1

Was physical force used resulting in bodily injury during the stop?

	YES	NO
Alaska Native/American Indian	0	24
Asian/Pacific Islander	0	66
Black	0	532
White	0	2,137
Hispanic/Latino	0	1,341
TOTAL	0	4,100

Tables Illustrating Motor Vehicle Related Contact Data

Table 1. Citations and Warnings

Race/ Ethnicity	All Contacts	Citations	Verbal Warning	Written Warning	Contact Percent	Citation Percent	Verbal Percent	Written Percent
Alaska Native/ American Indian	24	5	10	9	1%	1%	1%	1%
Asian/ Pacific Islander	66	13	25	27	2%	1%	2%	2%
Black	532	120	220	190	13%	13%	14%	12%
White	2,137	395	784	951	52%	42%	51%	59%
Hispanic/ Latino	1,341	416	488	422	33%	44%	32%	26%
TOTAL	4,100	949	1,527	1,599	100%	100%	100%	100%



Table 2. Motor Vehicle Contacts and Fair Roads Standard Comparison

Comparison of motor vehicle-related contacts with households that have vehicle access.

Race/Ethnicity	Contact Percentage	Households with Vehicle Access
Alaska Native/American Indian	1%	0%
Asian/Pacific Islander	2%	5%
Black	13%	14%
White	52%	60%
Hispanic/Latino	33%	19%
TOTAL	100%	98%

Table 3. Motor Vehicle Searches and Arrests.

Race/Ethnicity	Searches	Consent Searches	Arrests
Alaska Native/American Indian	0	0	0
Asian/Pacific Islander	1	0	1
Black	12	1	3
White	33	7	12
Hispanic/Latino	41	3	24
TOTAL	87	11	40

Table 4. Instances Where Peace Officers Used Physical Force Resulting in Bodily Injury

Instances Where Peace Officers Used Physical Force that Resulted in Bodily Injury	Arrest	Location of Stop	Reason for Stop

Table 5. Search Data

Race/ Ethnicity	Searches	Contraband Found Yes	Contraband Found No	Arrests	Percent Searches	Percent Contraband Found	Percent No Contraband	Percent Arrest
Alaska Native/ American Indian	0	0	0	0	0%	0%	0%	0%
Asian/ Pacific Islander	1	1	0	1	1%	2%	0%	3%
Black	12	10	2	3	14%	16%	8%	8%
White	33	20	13	12	38%	33%	50%	30%
Hispanic/ Latino	41	30	11	24	47%	49%	42%	60%
TOTAL	87	61	26	40	100%	100%	100%	100%

Table 6. Report on Audits.

The following table contains data regarding the number and outcome of required data audits during the period of 1/1/23-12/31/23.

Audit Data	Number of Data Audits Completed	Date of Completion	Outcome of Audit
1	1	03/01/23	Data was valid and reliable
2	1	06/01/23	Data was valid and reliable
3	1	09/01/23	Data was valid and reliable
4	1	12/01/23	Data was valid and reliable

ADDITIONAL COMMENTS:

Table 7. Instance Where Force Resulted in Bodily Injury.

Race/Ethnicity	Number	Percent
Alaska Native/American Indian	0	0%
Asian/Pacific Islander	0	0%
Black	0	0%
White	0	0%
Hispanic/Latino	0	0%
TOTAL	0	0%

Table 8. Reason for Arrests from Vehicle Contact

Race/ Ethnicity	Violation of Penal Code	Violation of Traffic Law	Violation of City Ordinance	Outstanding Warrant	Percent Penal Code	Percent Traffic Law	Percent City Ordinance	Percent Warrant
Alaska Native/ American Indian	0	0	0	0	0%	0%	0%	0%
Asian/ Pacific Islander	0	1	0	0	0%	20%	0%	0%
Black	1	0	0	2	3%	0%	0%	33%
White	8	1	0	3	28%	20%	0%	50%
Hispanic/ Latino	20	3	0	1	69%	60%	0%	17%
TOTAL	29	5	0	6	100%	100%	0%	100%

Table 9. Contraband Hit Rate

Race/ Ethnicity	Searches	Contraband Found Yes	Contraband Hit Rate	Search Percent	Contraband Percent
Alaska Native/ American Indian	0	0	0%	0%	0%
Asian/ Pacific Islander	1	1	100%	1%	2%
Black	12	10	83%	14%	16%
White	33	20	61%	38%	33%
Hispanic/Latino	41	30	73%	47%	49%

Analysis and Interpretation of Data

In 2001, the Texas Legislature passed Senate Bill 1074, which eventually became the Texas Racial Profiling Law. This particular law came into effect on January 1, 2002 and required all police departments in Texas to collect traffic-related data and report this information to their local governing authority by March 1 of each year. This law remained in place until 2009, when it was modified to include the collection and reporting of all motor vehicle-related contacts in which a citation was issued or an arrest was made. Further, the modification to the law further requires that all police officers indicate whether or not they knew the race or ethnicity of the individuals before detaining them. In addition, it became a requirement that agencies report motor vehicle-related data to their local governing authority and to the Texas Commission on Law Enforcement (TCOLE) by March 1 of each year. The purpose in collecting and disclosing this information is to determine if police officers in any particular municipality are engaging in the practice of racially profiling minority motorists.

One of the central requirements of the law is that police departments interpret motor vehicle-related data. Even though most researchers would likely agree that it is within the confines of good practice for police departments to be accountable to the citizenry while carrying a transparent image before the community, it is in fact very difficult to determine if individual police officers are engaging in racial profiling from a review and analysis of aggregate/institutional data. In other words, it is challenging for a reputable researcher to identify specific "individual" racist behavior from aggregate-level "institutional" data on traffic or motor vehicle-related contacts.

As previously noted, in 2009 the Texas Legislature passed House Bill 3389, which modified the Racial Profiling Law by adding new requirements; this took effect on January 1, 2010. The changes included, but are not limited to, the re-definition of a contact to include motor vehicle-related contacts in which a citation was issued or an arrest was made. In addition, it required police officers to indicate if they knew the race or ethnicity of the individual before detaining them. The 2009 law also required adding "Middle Eastern" to the racial and ethnic category and submitting the annual data report to TCOLE before March 1 of each year.

In 2017, the Texas Legislators passed HB 3051 which removed the Middle Eastern data requirement while standardizing the racial and ethnic categories relevant to the individuals that came in contact with police. In addition, the Sandra Bland Act (SB 1849) was passed and became law. Thus, the most significant legislative mandate (Sandra Bland Act) in Texas history regarding data requirements on law enforcement contacts became law and took effect on January 1, 2018. The Sandra Bland Act not only currently requires the extensive collection of data relevant to police motor vehicle contacts, but it also mandates for the data to be analyzed while addressing the following:

1. A comparative analysis of the information compiled (under Article 2.133):

- a. Evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;*
- b. Examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction;*
- c. Evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches.*

2. Information related to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

As part of their effort to comply with The Texas Racial Profiling/Sandra Bland Law, the Venus Police Department commissioned the analysis of its 2023 contact data. Hence, two different types of data analyses were performed. The first of these involved a careful evaluation of the 2023 motor vehicle-related data. This particular analysis measured, as required by the law, the number and percentage of Whites, Blacks, Hispanics or Latinos, Asians and Pacific Islanders, Alaska Natives and American Indians (Middle Easterners and individuals belonging to the “other” category, as optional categories), who came in contact with police in the course of a motor vehicle-related contact and were either issued a ticket, citation, or warning or an arrest was made. Also included in this data were instances when a motor vehicle contact took place for an alleged violation of the law or ordinance. The Tier 2 data analysis included, but was not limited to, information relevant to the number and percentage of contacts by race/ethnicity, gender, reason for the stop, location of stop, searches while indicating the type of search performed, result of stop, basis of an arrest, and use of physical force resulting in bodily injury.

The analysis on the data performed in this report, was based on a comparison of the 2023 motor vehicle contact data with a specific baseline. When reading this particular analysis, one should consider that there is disagreement in the literature regarding the appropriate baseline to be used when analyzing motor vehicle-related contact information. Of the baseline measures available, the Venus Police Department accepted our recommendation to rely, as a baseline measure, on the Fair Roads Standard. This particular baseline is established on data obtained through the U.S. Census Bureau (2020) relevant to the number of households that have access to vehicles while controlling for the race and ethnicity of the heads of households.

It should be noted that the census data presents challenges to any effort made at establishing a fair and accurate racial profiling analysis. That is, census data contains information on all residents of a particular community, regardless whether they are among the driving population. Further, census data, when used as a baseline of comparison, presents the challenge that it captures information related to city residents only, thus excluding individuals who may have come in contact with the Venus Police Department in 2023 but live outside city limits. In some jurisdictions the percentage of the population that comes in contact with the police but lives outside city limits represents a substantial volume of all motor vehicle-related contacts made in a given year.

In 2002, some civil rights groups in Texas expressed their concern and made recommendations to the effect that all police departments should rely, in their data analysis, on the Fair Roads Standard. This source contains census data specific to the number of “households” that have access to vehicles. Thus, proposing to compare “households” (which may have multiple residents and only a few vehicles) with “contacts” (an individual-based count). In essence this constitutes a comparison that may result in ecological fallacy. Despite this risk, as noted earlier, the Venus Police Department accepted the recommendation to utilize this form of comparison (i.e., census data relevant to households with vehicles) in an attempt to demonstrate its “good will” and “transparency” before the community. Thus, the Fair Roads Standard data obtained and used in this study is specifically relevant to the Dallas Fort-Worth (DFW) Metroplex.

Tier 2 (2023) Motor Vehicle-Related Contact Analysis

When examining the enhanced and more detailed Tier 2 data collected in 2023, it was evident that most motor vehicle-related contacts were made with Whites, followed by Hispanics. Of those who came in contact with police, most tickets or citations were issued to Hispanics and Whites; this was followed by Blacks. However, in terms of written warnings, most of these were issued to Whites, followed by Hispanics.

While reviewing searches and arrests, the data showed that most searches took place among Hispanics. When considering all searches, most were consented by Whites and Hispanics, while most custody arrests were of Hispanics. Overall, most searches resulted in contraband; of those that produced contraband, most were of Hispanics; this was followed by Whites. Of the searches that did not produce contraband, most were of Whites. Most arrests were made of Hispanics. Most of the arrests that originated from a violation of the penal code involved Hispanics. Overall, the police department does not report any instances where force was used that resulted in bodily injury.

Comparative Analysis

A comprehensive analysis of the motor vehicle contacts made in 2023 to the census data relevant to the number of “households” in DFW who indicated in the 2020 census that they had access to vehicles, produced interesting findings. Specifically, the percentage of Whites, Blacks, and Asians who came in contact with police was the same or lower than the percentage of White, Black, and Asian households in DFW that claimed in the last census to have access to vehicles. The opposite was true of Hispanics and American Indians. That is, a higher percentage of Hispanics and American Indians came in contact with police than the percentage of Hispanic and American Indian households in DFW that claimed in the last census to have access to vehicles. It should be noted that the percentage difference among American Indian contacts with households is of less than 3%; thus, deemed by some as statistically insignificant.

The comprehensive analysis of the searches resulting in contraband shows that the most significant contraband hit rate is of Asians. This was followed by Blacks and Hispanics. This means that among all searches performed in 2023, the most significant percentage of these that resulted in contraband was among Asians. The lowest contraband hit rate was among Whites.

Summary of Findings

As referenced earlier, the most recent Texas Racial Profiling Law requires that police departments perform data audits in order to validate the data being reported. Consistent with this requirement, the Venus Police Department has engaged del Carmen Consulting, LLC in order to perform these audits in a manner consistent with normative statistical practices. As shown in Table 6, the audit performed reveals that the data is valid and reliable. Further, as required by law, this report also includes an analysis on the searches performed. This analysis includes information on whether contraband was found as a result of the search while controlling for race/ethnicity. The search analysis demonstrates that the police department is engaging in search practices consistent with national trends in law enforcement.

While considering the findings produced as a result of this analysis, it is recommended that the Venus Police Department should continue to collect and evaluate additional information on motor vehicle contact data (i.e., reason for probable cause searches, contraband detected), which may prove to be useful when determining the nature of the contacts police officers are making with all individuals.

As part of this effort, the Venus Police Department should continue to:

- 1) Perform an independent analysis on contact and search data in the upcoming year.
- 2) Commission data audits in 2024 in order to assess data integrity; that is, to ensure that the data collected is consistent with the data being reported.

The comprehensive data analysis performed serves as evidence that the Venus Police Department has complied with the Texas Racial Profiling Law and all of its requirements. Further, the report demonstrates that the police department has incorporated a comprehensive racial profiling policy, currently offers information to the public on how to file a compliment or complaint, commissions quarterly data audits in order to ensure validity and reliability, collects and commissions the analysis of Tier 2 data, and ensures that the practice of racial profiling will not be tolerated.

Checklist

The following requirements were met by the Venus Police Department in accordance with The Texas Racial Profiling Law:

- ✔ Implement a Racial Profiling Policy citing act or actions that constitute racial profiling.
- ✔ Include in the racial profiling policy, a statement indicating prohibition of any peace officer employed by the Venus Police Department from engaging in racial profiling.
- ✔ Implement a process by which an individual may file a complaint regarding racial profiling violations.
- ✔ Provide public education related to the complaint and complaint process.
- ✔ Implement disciplinary guidelines for officers found in violation of the Texas Racial Profiling Law.
- ✔ Collect, report and analyze motor vehicle data (Tier 2).
- ✔ Commission Data Audits and a Search Analysis.
- ✔ Indicate total number of officers who knew and did not know, the race/ethnicity of individuals before being detained.
- ✔ Produce an annual report on police contacts (Tier 2) and present this to the local governing body and TCOLE by March 1, 2024.
- ✔ Adopt a policy, if video/audio equipment is installed, on standards for reviewing video and audio documentation.



Legislative & Administrative *Addendum*

TCOLE GUIDELINES

Guidelines for Compiling and Reporting Data under Senate Bill 1074

Background

Senate Bill 1074 of the 77th Legislature established requirements in the Texas Code of Criminal Procedure (TCCP) for law enforcement agencies. The Commission developed this document to assist agencies in complying with the statutory requirements.

The guidelines are written in the form of standards using a style developed from accreditation organizations including the Commission on Accreditation for Law Enforcement Agencies (CALEA). The standards provide a description of **what** must be accomplished by an agency but allows wide latitude in determining **how** the agency will achieve compliance with each applicable standard.

Each standard is composed of two parts: the standard statement and the commentary. The *standard statement* is a declarative sentence that places a clear-cut requirement, or multiple requirements, on an agency. The commentary supports the standard statement but is not binding. The commentary can serve as a prompt, as guidance to clarify the intent of the standard, or as an example of one possible way to comply with the standard.

Standard 1

Each law enforcement agency has a detailed written directive that:

- clearly defines acts that constitute racial profiling;
- strictly prohibits peace officers employed by the agency from engaging in racial profiling;
- implements a process by which an individual may file a complaint with the agency if the individual believes a peace officer employed by the agency has engaged in racial profiling with respect to the individual filing the complaint;
- provides for public education relating to the complaint process;
- requires appropriate corrective action to be taken against a peace officer employed by the agency who, after investigation, is shown to have engaged in racial profiling in violation of the agency's written racial profiling policy; and
- requires the collection of certain types of data for subsequent reporting.

Commentary

Article 2.131 of the TCCP prohibits officers from engaging in racial profiling, and article 2.132 of the TCCP now requires a written policy that contains the elements listed in this standard. The article also specifically defines a law enforcement agency as it applies to this statute as an “agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers’ official duties.”

The article further defines race or ethnicity as being of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American.” The statute does not limit the required policies to just these ethnic groups.

This written policy is to be adopted and implemented no later than January 1, 2002.

Standard 2

Each peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic, or who stops a pedestrian for any suspected offense reports to the employing law enforcement agency information relating to the stop, to include:

- a physical description of each person detained, including gender and the person’s race or ethnicity, as stated by the person, or, if the person does not state a race or ethnicity, as determined by the officer’s best judgment;
- the traffic law or ordinance alleged to have been violated or the suspected offense;
- whether the officer conducted a search as a result of the stop and, if so, whether the person stopped consented to the search;
- whether any contraband was discovered in the course of the search, and the type of contraband discovered;
- whether probable cause to search existed, and the facts supporting the existence of that probable cause;
- whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;
- the street address or approximate location of the stop; and
- whether the officer issued a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Commentary

The information required by 2.133 TCCP is used to complete the agency reporting requirements found in Article 2.134. A peace officer and an agency may be exempted from this requirement under Article 2.135 TCCP Exemption for Agencies Using Video and Audio Equipment. An agency may be exempt from this reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds. Section 2.135 (a)(2) states, “the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds for video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.”

Standard 3

The agency compiles the information collected under 2.132 and 2.133 and analyzes the information identified in 2.133.

Commentary

Senate Bill 1074 from the 77th Session of the Texas Legislature created requirements for law enforcement agencies to gather specific information and to report it to each county or municipality served. New sections of law were added to the Code of Criminal Procedure regarding the reporting of traffic and pedestrian stops. Detained is defined as when a person stopped is not free to leave.

Article 2.134 TCCP requires the agency to compile and provide an analysis of the information collected by peace officer employed by the agency. The report is provided to the governing body of the municipality or county no later than March 1 of each year and covers the previous calendar year.

There is data collection and reporting required based on Article 2.132 CCP (tier one) and Article 2.133 CCP (tier two).

The minimum requirements for “tier one” data for traffic stops in which a citation results are:

- 1) the race or ethnicity of individual detained (race and ethnicity as defined by the bill means of “a particular descent, including Caucasian, African, Hispanic, Asian, or Native American”);
- 2) whether a search was conducted, and if there was a search, whether it was a consent search or a probable cause search; and
- 3) whether there was a custody arrest.

The minimum requirements for reporting on “tier two” reports include traffic and pedestrian stops. Tier two data include:

- 1) the detained person’s gender and race or ethnicity;
- 2) the type of law violation suspected, e.g., hazardous traffic, non-hazardous traffic, or other criminal investigation (the Texas Department of Public Safety publishes a categorization of traffic offenses into hazardous or non-hazardous);
- 3) whether a search was conducted, and if so whether it was based on consent or probable cause;
- 4) facts supporting probable cause;
- 5) the type, if any, of contraband that was collected;
- 6) disposition of the stop, e.g., arrest, ticket, warning, or release;
- 7) location of stop; and
- 8) statement of the charge, e.g., felony, misdemeanor, or traffic.

Tier one reports are made to the governing body of each county or municipality served by the agency an annual report of information if the agency is an agency of a county, municipality, or other political subdivision of the state. Tier one and two reports are reported to the county or municipality not later than March 1 for the previous calendar year beginning March 1, 2003. Tier two reports include a comparative analysis between the race and ethnicity of persons detained to see if a differential pattern of treatment can be discerned based on the disposition of stops

including searches resulting from the stops. The reports also include information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. An agency may be exempt from the tier two reporting requirement by applying for the funds from the Department of Public Safety for video and audio equipment and the State does not supply those funds [See 2.135 (a)(2) TCCP].

Reports should include both raw numbers and percentages for each group. Caution should be exercised in interpreting the data involving percentages because of statistical distortions caused by very small numbers in any particular category, for example, if only one American Indian is stopped and searched, that stop would not provide an accurate comparison with 200 stops among Caucasians with 100 searches. In the first case, a 100% search rate would be skewed data when compared to a 50% rate for Caucasians.

Standard 4

If a law enforcement agency has video and audio capabilities in motor vehicles regularly used for traffic stops, or audio capabilities on motorcycles regularly used to make traffic stops, the agency:

- adopts standards for reviewing and retaining audio and video documentation; and
- promptly provides a copy of the recording to a peace officer who is the subject of a complaint on written request by the officer.

Commentary

The agency should have a specific review and retention policy. Article 2.132 TCCP specifically requires that the peace officer be promptly provided with a copy of the audio or video recordings if the officer is the subject of a complaint and the officer makes a written request.

Standard 5

Agencies that do not currently have video or audio equipment must examine the feasibility of installing such equipment.

Commentary

None

Standard 6

Agencies that have video and audio recording capabilities are exempt from the reporting requirements of Article 2.134 TCCP and officers are exempt from the reporting requirements of Article 2.133 TCCP provided that:

- the equipment was in place and used during the proceeding calendar year; and
- video and audio documentation is retained for at least 90 days.

Commentary

The audio and video equipment and policy must have been in place during the previous calendar year. Audio and video documentation must be kept for at least 90 days or longer if a complaint has been filed. The documentation must be retained until the complaint is resolved. Peace officers are not exempt from the requirements under Article 2.132 TCCP.

Standard 7

Agencies have citation forms or other electronic media that comply with Section 543.202 of the Transportation Code.

Commentary

Senate Bill 1074 changed Section 543.202 of the Transportation Code requiring citations to include:

- race or ethnicity, and
- whether a search of the vehicle was conducted and whether consent for the search was obtained.

The Texas Law on Racial Profiling

S.B. No. 1074 - An Act relating to the prevention of racial profiling by certain peace officers.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the

policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(5) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled

during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

SECTION 2. Chapter 3, Code of Criminal Procedure, is amended by adding Article 3.05 to read as follows:

Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

SECTION 3. Section 96.641, Education Code, is amended by adding Subsection (j) to read as follows:

(j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for:

(1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling;

(2) implementing laws and internal agency policies relating to preventing racial profiling;
and

(3) analyzing and reporting collected information.

SECTION 4. Section 1701.253, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Section 1701.402, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Section 543.202, Transportation Code, is amended to read as follows:

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

(1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the person charged;

(2) the registration number of the vehicle involved;

(3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;

(4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;

(5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;

(6) whether a search of the vehicle was conducted and whether consent for the search was obtained;

(7) the plea, the judgment, and whether bail was forfeited;

(8) ~~[(7)]~~ the date of conviction; and

(9) ~~[(8)]~~ the amount of the fine or forfeiture.

SECTION 7. Not later than January 1, 2002, a law enforcement agency shall adopt and implement a policy and begin collecting information under the policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.132, Code of Criminal Procedure, as added by this Act, on March 1, 2003. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2002, and ending December 31, 2002.

SECTION 8. A local law enforcement agency shall first submit information to the governing body of each county or municipality served by the agency as required by Article 2.134, Code of Criminal Procedure, as added by this Act, on March 1, 2004. The first submission of information shall consist of information compiled by the agency during the period beginning January 1, 2003, and ending December 31, 2003.

SECTION 9. Not later than January 1, 2002:

(1) the Commission on Law Enforcement Officer Standards and Education shall establish an education and training program on racial profiling as required by Subsection (e), Section 1701.253, Occupations Code, as added by this Act; and

(2) the Bill Blackwood Law Enforcement Management Institute of Texas shall establish a program on racial profiling as required by Subsection (j), Section 96.641, Education Code, as added by this Act.

SECTION 10. A person who on the effective date of this Act holds an intermediate proficiency certificate issued by the Commission on Law Enforcement Officer Standards and Education or has held a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education for at least two years shall complete an education and training program on racial profiling established under Subsection (e), Section 1701.253, Occupations Code, as added by this Act, not later than September 1, 2003.

SECTION 11. An individual appointed or elected as a police chief before the effective date of this Act shall complete a program on racial profiling established under Subsection (j), Section 96.641, Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. This Act takes effect September 1, 2001

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

Modifications to the Original Law

(H.B. 3389)

Amend CSHB 3389 (Senate committee report) as follows:

(1) Strike the following SECTIONS of the bill:

- (A) SECTION 8, adding Section 1701.164, Occupations Code (page 4, lines 61-66);
- (B) SECTION 24, amending Article 2.132(b), Code of Criminal Procedure (page 8, lines 19-53);
- (C) SECTION 25, amending Article 2.134(b), Code of Criminal Procedure (page 8, lines 54-64);
- (D) SECTION 28, providing transition language for the amendments to Articles 2.132(b) and 2.134(b), Code of Criminal Procedure (page 9, lines 40-47).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly: SECTION _____. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a),(b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle~~[traffic]~~ stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, ~~[or]~~ Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

- (1) clearly define acts constituting racial profiling;
- (2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;
- (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
- (4) provide public education relating to the agency's complaint process;
- (5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;
- (6) require collection of information relating to motor vehicle ~~[traffic]~~ stops in which a citation is issued and to arrests made as a result of ~~[resulting from]~~ those ~~[traffic]~~ stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the individual ~~[person]~~ detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit ~~[to the governing body of each county or~~

~~municipality served by the agency]~~ an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle ~~[traffic]~~ stops and transmitter activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle ~~[traffic]~~ stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle ~~[traffic]~~ stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE ~~[TRAFFIC AND PEDESTRIAN]~~ STOPS. (a) In this article, "race":

~~[(1) "Race]~~ or ethnicity" has the meaning assigned by Article 2.132(a).

~~[(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.]~~

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance ~~[regulating traffic or who stops a pedestrian for any suspected offense]~~ shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any ~~[each]~~ person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop ~~[traffic law or ordinance alleged to have been violated or the suspected offense]~~;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description ~~[the type]~~ of the contraband or evidence ~~[discovered]~~;

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle ~~[existed and the facts supporting the existence of that probable cause];~~

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a written warning or a citation as a result of the stop~~[, including a description of the warning or a statement of the violation charged].~~

SECTION _____. Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Motor vehicle[, "pedestrian] stop" has the meaning assigned by Article 2.132(a) ~~[means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest].~~

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each ~~[local]~~ law enforcement agency shall submit a report containing the incident-based data ~~[information]~~ compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency ~~[in a manner approved by the agency].~~

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities ~~[determine the prevalence of racial profiling by peace officers employed by the agency]; and~~

(B) examine the disposition of motor vehicle ~~[traffic and pedestrian]~~ stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from ~~[the]~~ stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle ~~[traffic or pedestrian]~~ stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

SECTION _____. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle ~~[traffic and pedestrian]~~ stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle ~~[traffic and pedestrian]~~ stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle ~~[traffic and pedestrian]~~ stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle ~~[traffic and pedestrian]~~ stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle ~~[traffic or pedestrian]~~ stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

SECTION _____. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based

data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION _____. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and

(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 10 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION _____. (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;

(2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) . . . \$40;

- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.061, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. (a) Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) . . . \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) . . . \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION _____. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; ~~and~~
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4; ~~and~~
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.10.

SECTION _____. Subchapter D, Chapter 1701, Occupations Code, is amended by adding Section 1701.164 to read as follows:

Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall collect and maintain incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency under Article 2.133 of that code. The commission in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association shall develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION _____. Subsection (a), Section 1701.501, Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:

- (1) this chapter;

(2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure;
or

(3) a commission rule.

SECTION _____. (a) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

(b) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Racial and Ethnic Designations (H.B. 3051)

H.B. No. 3051 - An Act relating to the categories used to record the race or ethnicity of persons stopped for or convicted of traffic offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 2.132(a)(3), Code of Criminal Procedure, is amended to read as follows:

(3) "Race or ethnicity" means the following categories:

(A) Alaska native or American Indian;

(B) [of a particular descent, including Caucasian, African, Hispanic,] Asian or Pacific Islander;

(C) black;

(D) white; and

(E) Hispanic or Latino [~~Native American, or Middle Eastern descent~~].

SECTION 2. Section 543.202(a), Transportation Code, is amended to read as follows:

(a) In this section, "race or ethnicity" means the following categories:

(1) Alaska native or American Indian;

(2) [of a particular descent, including Caucasian, African, Hispanic,] Asian or Pacific Islander;

(3) black;

(4) white; and

(5) Hispanic or Latino [~~or Native American descent~~].

SECTION 3. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 3051 was passed by the House on May 4, 2017, by the following vote: Yeas 143, Nays 2, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3051 was passed by the Senate on May 19, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

The Sandra Bland Act

(S.B. 1849)

S.B. No. 1849

An Act relating to interactions between law enforcement and individuals detained or arrested on suspicion of the commission of criminal offenses, to the confinement, conviction, or release of those individuals, and to grants supporting populations that are more likely to interact frequently with law enforcement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. SHORT TITLE

SECTION 1.01. SHORT TITLE. This Act shall be known as the Sandra Bland Act, in memory of Sandra Bland.

ARTICLE 2. IDENTIFICATION AND DIVERSION OF AND SERVICES FOR PERSONS SUSPECTED OF HAVING A MENTAL ILLNESS, AN INTELLECTUAL DISABILITY, OR A SUBSTANCE ABUSE ISSUE

SECTION 2.01. Article 16.22, Code of Criminal Procedure, is amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR INTELLECTUAL DISABILITY [MENTAL RETARDATION]. (a)(1) Not later than 12 [72] hours after receiving credible information that may establish reasonable cause to believe that a defendant committed to the sheriff's custody has a mental illness or is a person with an intellectual disability [mental retardation], including observation of the defendant's behavior immediately before, during, and after the defendant's arrest and the results of any previous assessment of the defendant, the sheriff shall provide written or electronic notice of the information to the magistrate. On a determination that there is reasonable cause to believe that the defendant has a mental illness or is a person with an intellectual disability [mental retardation], the magistrate, except as provided by Subdivision

(2), shall order the local mental health or intellectual and developmental disability [mental retardation] authority or another qualified mental health or intellectual disability [mental retardation] expert to:

(A) collect information regarding whether the defendant has a mental illness as defined by Section 571.003,

Health and Safety Code, or is a person with an intellectual disability [mental retardation] as defined by Section 591.003, Health and Safety Code, including information obtained from any previous assessment of the defendant; and

(B) provide to the magistrate a written assessment of the information collected under Paragraph (A).

(2) The magistrate is not required to order the collection of information under Subdivision

(1) if the defendant in the year preceding the defendant's applicable date of arrest has been determined to have a mental illness or to be a person with an intellectual disability [mental retardation] by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health or intellectual disability [mental retardation] expert described by Subdivision

(1). A court that elects to use the results of that previous determination may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information regarding the defendant as required under Subdivision (1), the magistrate may order the defendant to submit to an examination in a mental health facility determined to be appropriate by the local mental health or intellectual and developmental disability [mental retardation] authority for a reasonable period not to exceed 21 days. The magistrate may order a defendant to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination only on request of the local mental health or intellectual and developmental disability [mental retardation] authority and with the consent of the head of the facility. If a defendant who has been ordered to a facility operated by the Department of State Health Services or the Health and Human Services Commission [Department of Aging and Disability Services] for examination remains in the facility for a period exceeding 21 days, the head of that facility shall cause the defendant to be immediately transported to the committing court and placed in the custody of the sheriff of the county in which the committing court is located. That county shall reimburse the facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(b) A written assessment of the information collected under Subsection (a)(1)(A) shall be provided to the magistrate not later than the 30th day after the date of any order issued under Subsection (a) in a felony case and not later than the 10th day after the date of any order issued under that subsection in a misdemeanor case, and the magistrate shall provide copies of the written assessment to the defense counsel, the prosecuting attorney, and the trial court. The written assessment must include a description of the procedures used in the collection of information under Subsection (a)(1)(A) and the applicable expert's observations and findings pertaining to:

(1) whether the defendant is a person who has a mental illness or is a person with an intellectual disability [mental retardation];

(2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and

(3) recommended treatment.

(c) After the trial court receives the applicable expert's written assessment relating to the defendant under Subsection (b) or elects to use the results of a previous determination as described by Subsection (a)(2), the trial court may, as applicable:

(1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032;

(2) resume or initiate competency proceedings, if required, as provided by Chapter 46B

or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or intellectual disability [mental retardation] services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

(3) consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision.

(d) This article does not prevent the applicable court from, before, during, or after the collection of information regarding the defendant as described by this article: (1) releasing a defendant who has a mental illness [mentally ill] or is a person with an intellectual disability [mentally retarded defendant] from custody on personal or surety bond; or

(2) ordering an examination regarding the defendant's competency to stand trial.

SECTION 2.02. Chapter 16, Code of Criminal Procedure, is amended by adding Article 16.23 to read as follows:

Art. 16.23. DIVERSION OF PERSONS SUFFERING MENTAL HEALTH CRISIS OR SUBSTANCE ABUSE ISSUE. (a) Each law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

(1) there is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;

(2) it is reasonable to divert the person;

(3) the offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and

(4) the mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

(b) Subsection (a) does not apply to a person who is accused of an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code.

SECTION 2.03. Section 539.002, Government Code, is amended to read as follows:

Sec. 539.002. GRANTS FOR ESTABLISHMENT AND EXPANSION OF COMMUNITY COLLABORATIVES. (a) To the extent funds are appropriated to the department for that purpose, the department shall make grants to entities, including local governmental entities, nonprofit community organizations, and faith-based community organizations, to establish or expand community collaboratives that bring the public and private sectors together to provide services to persons experiencing homelessness, substance abuse issues, or [and] mental illness. [The department may make a maximum of five grants, which must be made in the most populous municipalities in this state that are located in counties with a population of more than one million.] In awarding grants, the department shall give special consideration to entities:

(1) establishing [a] new collaboratives; or

(2) establishing or expanding collaboratives that serve two or more counties, each with a population of less than 100,000 [collaborative].

(b) The department shall require each entity awarded a grant under this section to:

(1) leverage additional funding from private sources in an amount that is at least equal to the amount of the grant awarded under this section; [and]

(2) provide evidence of significant coordination and collaboration between the entity, local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in establishing or expanding a community collaborative funded by a grant awarded under this section; and

(3) provide evidence of a local law enforcement policy to divert appropriate persons from jails or other detention facilities to an entity affiliated with a community collaborative for the purpose of providing services to those persons.

SECTION 2.04. Chapter 539, Government Code, is amended by adding Section 539.0051 to read as follows:

Sec. 539.0051. PLAN REQUIRED FOR CERTAIN COMMUNITY COLLABORATIVES. (a) The governing body of a county shall develop and make public a plan detailing:

(1) how local mental health authorities, municipalities, local law enforcement agencies, and other community stakeholders in the county could coordinate to establish or expand a community collaborative to accomplish the goals of Section 539.002;

(2) how entities in the county may leverage funding from private sources to accomplish the goals of Section 539.002 through the formation or expansion of a community collaborative; and

(3) how the formation or expansion of a community collaborative could establish or support resources or services to help local law enforcement agencies to divert persons who have been arrested to appropriate mental health care or substance abuse treatment.

(b) The governing body of a county in which an entity that received a grant under Section 539.002 before September 1, 2017, is located is not required to develop a plan under Subsection (a).

(c) Two or more counties, each with a population of less than 100,000, may form a joint plan under Subsection (a).

ARTICLE 3. BAIL, PRETRIAL RELEASE, AND COUNTY JAIL STANDARDS

SECTION 3.01. The heading to Article 17.032, Code of Criminal Procedure, is amended to read as follows:

Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN [MENTALLY ILL] DEFENDANTS WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY.

SECTION 3.02. Articles 17.032(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) A magistrate shall release a defendant on personal bond unless good cause is shown

otherwise if the:

(1) defendant is not charged with and has not been previously convicted of a violent offense;

(2) defendant is examined by the local mental health or intellectual and developmental disability [mental retardation] authority or another mental health expert under Article 16.22 [of this code];

(3) applicable expert, in a written assessment submitted to the magistrate under Article 16.22:

(A) concludes that the defendant has a mental illness or is a person with an intellectual disability [mental retardation] and is nonetheless competent to stand trial; and

(B) recommends mental health treatment or intellectual disability treatment for the defendant, as applicable; and

(4) magistrate determines, in consultation with the local mental health or intellectual and developmental disability [mental retardation] authority, that appropriate community-based mental health or intellectual disability [mental retardation] services for the defendant are available through the [Texas] Department of State [Mental] Health Services [and Mental Retardation] under Section 534.053, Health and Safety Code, or through another mental health or intellectual disability [mental retardation] services provider.

(c) The magistrate, unless good cause is shown for not requiring treatment, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health or intellectual disability [mental retardation] treatment as recommended by the local mental health or intellectual and developmental disability [mental retardation] authority if the defendant's:

(1) mental illness or intellectual disability [mental retardation] is chronic in nature; or

(2) ability to function independently will continue to deteriorate if the defendant is not treated.

SECTION 3.03. Article 25.03, Code of Criminal Procedure, is amended to read as follows:

Art. 25.03. IF ON BAIL IN FELONY. When the accused, in case of felony, is on bail at the time the indictment is presented, [it is not necessary to serve him with a copy, but] the clerk shall [on request] deliver a copy of the indictment [same] to the accused or the accused's [his] counsel[,] at the earliest possible time.

SECTION 3.04. Article 25.04, Code of Criminal Procedure, is amended to read as follows:

Art. 25.04. IN MISDEMEANOR. In misdemeanors, the clerk shall deliver a copy of the indictment or information to the accused or the accused's counsel at the earliest possible time before trial [it shall not be necessary before trial to furnish the accused with a copy of the indictment or information; but he or his counsel may demand a copy, which shall be given as early as possible

SECTION 3.05. Section 511.009(a), Government Code, as amended by Chapters 281 (H.B. 875), 648 (H.B. 549), and 688 (H.B. 634), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

- (a) The commission shall:
- (1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;
 - (2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;
 - (3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;
 - (4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;
 - (5) revise, amend, or change rules and procedures if necessary;
 - (6) provide to local government officials consultation on and technical assistance for county jails;
 - (7) review and comment on plans for the construction and major modification or renovation of county jails;
 - (8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;
 - (9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;
 - (10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;
 - (11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;
 - (12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;
 - (13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;
 - (14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails;
 - (15) schedule announced and unannounced inspections of jails under the commission's jurisdiction using the risk assessment plan established under Section 511.0085 to guide the inspections process;
 - (16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:
 - (A) common issues concerning jail administration;
 - (B) examples of successful strategies for maintaining compliance with state law and the rules,

standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

(17) report to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with Article 16.22, Code of Criminal Procedure;

(18) adopt reasonable rules and procedures establishing minimum requirements for jails to:

(A) determine if a prisoner is pregnant; and

(B) ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for persons who are confined in the jail and are known or determined to be pregnant;

(19) provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety; [and]

(20) adopt reasonable rules and procedures establishing minimum standards for prisoner visitation that provide each prisoner at a county jail with a minimum of two in-person, noncontact visitation periods per week of at least 20 minutes duration each;

(21) [(20)] require the sheriff of each county to:

(A) investigate and verify the veteran status of each prisoner by using data made available from the Veterans Reentry Search Service (VRSS) operated by the United States Department of Veterans Affairs or a similar service; and

(B) use the data described by Paragraph (A) to assist prisoners who are veterans in applying for federal benefits or compensation for which the prisoners may be eligible under a program administered by the United States Department of Veterans Affairs;

(22) [(20)] adopt reasonable rules and procedures regarding visitation of a prisoner at a county jail by a guardian, as defined by Section 1002.012, Estates Code, that:

(A) allow visitation by a guardian to the same extent as the prisoner's next of kin, including placing the guardian on the prisoner's approved visitors list on the guardian's request and providing the guardian access to the prisoner during a facility's standard visitation hours if the prisoner is otherwise eligible to receive visitors; and

(B) require the guardian to provide the sheriff with letters of guardianship issued as provided by Section 1106.001, Estates Code, before being allowed to visit the prisoner; and

(23) adopt reasonable rules and procedures to ensure the safety of prisoners, including rules and procedures that require a county jail to:

(A) give prisoners the ability to access a mental health professional at the jail through a telemental health service 24 hours a day;

(B) give prisoners the ability to access a health professional at the jail or through a telehealth service 24 hours a day or, if a health professional is unavailable at the jail or through a telehealth service, provide for a prisoner to be transported to access a health professional; and

(C) if funding is available under Section 511.019, install automated electronic sensors or cameras to ensure accurate and timely in-person checks of cells or groups of cells confining at-risk individuals.

SECTION 3.06. Section 511.009, Government Code, is amended by adding Subsection (d) to read

as follows:

(d) The commission shall adopt reasonable rules and procedures establishing minimum standards regarding the continuity of prescription medications for the care and treatment of prisoners. The rules and procedures shall require that a qualified medical professional shall review as soon as possible any prescription medication a prisoner is taking when the prisoner is taken into custody.

SECTION 3.07. Chapter 511, Government Code, is amended by adding Sections 511.019, 511.020, and 511.021 to read as follows:

Sec. 511.019. PRISONER SAFETY FUND. (a) The prisoner safety fund is a dedicated account in the general revenue fund.

(b) The prisoner safety fund consists of:

(1) appropriations of money to the fund by the legislature; and
(2) gifts, grants, including grants from the federal government, and other donations received for the fund.

(c) Money in the fund may be appropriated only to the commission to pay for capital improvements that are required under Section 511.009(a)(23).

(d) The commission by rule may establish a grant program to provide grants to counties to fund capital improvements described by Subsection (c). The commission may only provide a grant to a county for capital improvements to a county jail with a capacity of not more than 96 prisoners.

Sec. 511.020. SERIOUS INCIDENTS REPORT. (a) On or before the fifth day of each month, the sheriff of each county shall report to the commission regarding the occurrence during the preceding month of any of the following incidents involving a prisoner in the county jail:

(1) a suicide;
(2) an attempted suicide;
(3) a death;
(4) a serious bodily injury, as that term is defined by
Section 1.07, Penal Code;
(5) an assault;
(6) an escape;
(7) a sexual assault; and
(8) any use of force resulting in bodily injury, as that term is defined by Section 1.07, Penal Code.

(b) The commission shall prescribe a form for the report required by Subsection (a).

(c) The information required to be reported under Subsection (a)(8) may not include the name or other identifying information of a county jailer or jail employee.

(d) The information reported under Subsection (a) is public information subject to an open records request under Chapter 552.

Sec. 511.021. INDEPENDENT INVESTIGATION OF DEATH OCCURRING IN COUNTY JAIL. (a) On the death of a prisoner in a county jail, the commission shall appoint a law enforcement agency, other

than the local law enforcement agency that operates the county jail, to investigate the death as soon as possible.

(b) The commission shall adopt any rules necessary relating to the appointment of a law enforcement agency under Subsection

(a), including rules relating to cooperation between law enforcement agencies and to procedures for handling evidence.

SECTION 3.08. The changes in law made by this article to Article 17.032, Code of Criminal Procedure, apply only to a personal bond that is executed on or after the effective date of this Act. A personal bond executed before the effective date of executed, and the former law is continued in effect for that purpose.

SECTION 3.09. Not later than January 1, 2018, the Commission on Jail Standards shall:

(1) adopt the rules and procedures required by Section 511.009(d), Government Code, as added by this article, and the rules required by Section 511.021(b), Government Code, as added by this article; and

(2) prescribe the form required by Section 511.020(b), Government Code, as added by this article.

SECTION 3.10. Not later than September 1, 2018, the Commission on Jail Standards shall adopt the rules and procedures required by Section 511.009(a)(23), Government Code, as added by this article. On and after September 1, 2020, a county jail shall comply with any rule or procedure adopted by the Commission on Jail Standards under that subdivision.

SECTION 3.11. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to non-substantive additions to and corrections in enacted codes.

ARTICLE 4. PEACE OFFICER AND COUNTY JAILER TRAINING

SECTION 4.01. Chapter 511, Government Code, is amended by adding Section 511.00905 to read as follows:

Sec. 511.00905. JAIL ADMINISTRATOR POSITION; EXAMINATION REQUIRED. (a) The Texas Commission on Law Enforcement shall develop and the commission shall approve an examination for a person assigned to the jail administrator position overseeing a county jail.

(b) The commission shall adopt rules requiring a person, other than a sheriff, assigned to the jail administrator position overseeing a county jail to pass the examination not later than the 180th day after the date the person is assigned to that position. The rules must provide that a person who fails the examination may be immediately removed from the position and may not be reinstated until the person passes the examination.

(c) The sheriff of a county shall perform the duties of the jail administrator position at any time there is not a person available who satisfies the examination requirements of this

section.

(d) A person other than a sheriff may not serve in the jail administrator position of a county jail unless the person satisfies the examination requirement of this section.

SECTION 4.02. Section 1701.253, Occupations Code, is amended by amending Subsection (j) and adding Subsection (n) to read as follows: commission shall require an officer to complete a 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer shall complete the program not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. An officer may not satisfy the requirements of this subsection [section] or Section 1701.402(g) by taking an online course on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

(n) As part of the minimum curriculum requirements, the commission shall require an officer to complete a statewide education and training program on de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury.

SECTION 4.03. Section 1701.310(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Subsection (e), a person may not be appointed as a county jailer, except on a temporary basis, unless the person has satisfactorily completed a preparatory training program, as required by the commission, in the operation of a county jail at a school operated or licensed by the commission. The training program must consist of at least eight hours of mental health training approved by the commission and the Commission on Jail Standards.

SECTION 4.04. Section 1701.352(b), Occupations Code, is amended to read as follows:

(b) The commission shall require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program at least once every 48 months that is approved by the commission and consists of:

- (1) topics selected by the agency; and
- (2) for an officer holding only a basic proficiency certificate, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:
 - (A) civil rights, racial sensitivity, and cultural diversity;
 - (B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; [and]
 - (C) de-escalation techniques to facilitate interaction with members of the public, including techniques for limiting the use of force resulting in bodily injury; and
 - (D) unless determined by the agency head to be inconsistent with the officer's assigned duties:
 - (i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; and
 - (ii) issues concerning sex offender characteristics.

SECTION 4.05. Section 1701.402, Occupations Code, is amended by adding Subsection (n) to read

as follows:

(n) As a requirement for an intermediate proficiency certificate or an advanced proficiency certificate, an officer must complete the education and training program regarding de-escalation techniques to facilitate interaction with members of the public established by the commission under Section 1701.253(n).

SECTION 4.06. Not later than March 1, 2018, the Texas Commission on Law Enforcement shall develop and the Commission on Jail Standards shall approve the examination required by Section 511.00905, Government Code, as added by this article.

SECTION 4.07. (a) Not later than March 1, 2018, the Texas Commission on Law Enforcement shall establish or modify training programs as necessary to comply with Section 1701.253, Occupations Code, as amended by this article.

(b) The minimum curriculum requirements under Section 1701.253(j), Occupations Code, as amended by this article, apply only to a peace officer who first begins to satisfy those requirements on or after April 1, 2018.

SECTION 4.08. (a) Section 1701.310, Occupations Code, as amended by this article, takes effect January 1, 2018.

(b) A person in the position of county jailer on September 1, 2017, must comply with Section 1701.310(a), Occupations Code, as amended by this article, not later than August 31, 2021.

ARTICLE 5. MOTOR VEHICLE STOPS, RACIAL PROFILING, AND ISSUANCE OF CITATIONS

SECTION 5.01. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (b) and (d) and adding Subsection (h) to read as follows:

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information

relating to:

- (A) the race or ethnicity of the individual detained;
- (B) whether a search was conducted and, if so, whether the individual detained consented to the search; [and]
- (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
- (D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;
- (E) the location of the stop; and
- (F) the reason for the stop; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

- (A) the Texas Commission on Law Enforcement; and
- (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

SECTION 5.02. Article 2.133, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

- (A) the person's gender; and
- (B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search

and a description of the contraband or evidence;

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; [and]

(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

(9) whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b)

to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

SECTION 5.03. Article 2.134(c), Code of Criminal Procedure, is amended to read as follows:

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities; [and]

(B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

SECTION 5.04. Article 2.137, Code of Criminal Procedure, is amended to read as follows:

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship,

available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)]. The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras [as described by Article 2.135(a)(1)(A)], the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using [installed] video and audio equipment and body worn cameras for those purposes [as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1)].

SECTION 5.05. Article 2.1385(a), Code of Criminal Procedure, is amended to read as follows:

(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an [the] amount not to exceed \$5,000 [of \$1,000] for each violation. The attorney general may sue to collect a civil penalty under this subsection.

SECTION 5.06. Article 2.135, Code of Criminal Procedure, is repealed.

SECTION 5.07. Articles 2.132 and 2.134, Code of Criminal Procedure, as amended by this article, apply only to a report covering a calendar year beginning on or after January 1, 2018.

SECTION 5.08. Not later than September 1, 2018, the Texas Commission on Law Enforcement shall:

(1) evaluate and change the guidelines for compiling and reporting information required under Article 2.134, Code of Criminal Procedure, as amended by this article, to enable the guidelines to better withstand academic scrutiny; and

(2) make accessible online:

(A) a downloadable format of any information submitted under Article 2.134(b), Code of Criminal

Procedure, that is not exempt from public disclosure under Chapter 552, Government Code; and
(B) a glossary of terms relating to the information to make the information readily understandable to the public. This Act takes effect September 1, 2017.

Senate Speaker of the House

I hereby certify that S.B. No. 1849 passed the Senate on May 11, 2017, by the following vote:
Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1849 passed the House on May 20, 2017, by the following vote:
Yeas 137, Nays 0, one present not voting.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01. Except as otherwise provided by this Act,

Approved:

Date

Governor

Chief Clerk of the House

**VENUS
POLICE DEPARTMENT
RACIAL PROFILING POLICY**

	VENUS POLICE DEPARTMENT	
	Policy 2.2 Professional Police Contacts	
	Effective Date: 12-30-15	Replaces: NEW
	Approved: <u>Michael Boese</u> Chief of Police	
	Reference:	

I. PURPOSE

The purpose of this policy is to unequivocally state that bias-based profiling in law enforcement is totally unacceptable, to provide guidelines for officers to prevent such occurrences, and to protect our officers when they act within the dictates of the law and policy from unwarranted accusations. This directive strictly prohibits the use of bias based profiling by employees of the Venus Police Department.

II. POLICY

It is the policy of this Department to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce the statutes, laws, and ordinances while insisting that individuals will only be stopped or detained when there exists reasonable suspicion to believe they have committed, are committing, or are about to commit, an infraction of the law. Employees of the Venus Police Department are prohibited from practices of bias-based profiling. Any employee found, after thorough investigation and review, to have engaged in racial or bias-based profiling shall be subject to disciplinary action up to and including termination. Any person or persons alleging racial or bias-based profiling may file a complaint against any employee(s) of the Department.

III. DEFINITIONS

- A. Bias-based Profiling – The detention, interdiction, search or seizure of any person based upon the person's age, gender, sexual orientation, race, color, creed, ethnicity, national origin, or similar personal characteristic.
- B. Racial Profiling – A law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.
 1. Examples of racial profiling include but are not limited to the following:
 - a. Detaining a driver who is speeding in a stream of traffic, where most other drivers are speeding, because of the driver's race, ethnicity, or national origin.
 - b. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity, or national origin is unlikely to own or possess that specific make or model of vehicle.
 - c. Detaining an individual based on the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.
- C. Race or Ethnicity – Means of a particular descent, including Caucasian, African, Hispanic, Asian, Native American or Middle Eastern descent.
- D. Motor Vehicle Stop – An occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.
- E. Reasonable Suspicion – Also known as articulable suspicion. Specific, articulable facts and circumstances, and reasonable inferences from those facts and circumstances, that would lead a reasonable peace officer to believe that some type of criminal activity is afoot, and the person(s) detained are somehow involved.

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	Effective Date: 12-30-15	Replaces: NEW
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F. Detention – Any restriction upon a person's liberty imposed by a peace officer.

G. Seizure – any taking of property from an individual without the individual's consent or any restriction of an individual's liberty without the individual's consent. A detention will be considered a seizure, as will an arrest.

IV. PROCEDURES

A. Training

1. Officers will receive initial and ongoing training in proactive enforcement tactics, including training in officer safety, courtesy, cultural diversity, the laws governing search and seizure, racial profiling, and interpersonal communication skills. Training will also cover bias based profiling issues including legal aspects.
2. Training programs will emphasize the need to respect the rights of all persons to be free from unreasonable government intrusion or police action.
3. The Chief's Office shall make available to the public information describing the process by which a complaint may be filed. The information will be readily accessible to the public in the police department lobby and other City facilities open to the public.

B. Stops / Detentions

1. Individuals shall only be subjected to stops, seizures or detentions based upon reasonable suspicion that they have committed, are committing, or are about to commit an infraction.
2. In the absence of a specific, credible report containing a physical description, a person's gender, sexual orientation, race, color, creed, ethnicity, national origin, or similar personal characteristic or any combination of these shall not be a factor in determining probable cause for an arrest or reasonable suspicion for a stop.

C. Oversight

1. Enforcement of statutes, laws, and ordinances will be accompanied by consistent, ongoing supervisory oversight to ensure that officers do not go beyond the parameters of reasonableness in conducting such activities.
2. Supervisors shall randomly review vehicle related Mobile Digital Video Recordings (MDVR) and or body camera recordings of each of their subordinates.
3. The supervisor shall determine compliance with this and other applicable directives.
4. The supervisor shall discuss their assessment with the respective employee.
5. The supervisor shall report his/her assessment each calendar quarter, via chain of command, to the Chief of Police. The reports shall be uniformly structured and contain:
 - a. The name of the employee under review
 - b. The date and time stamp of each contact reviewed
 - c. A written assessment of each contact reviewed, which shall include:
 - (1) The race/ethnicity of the person detained

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- (2) Whether a search was conducted
- (3) If a search was conducted, whether consent was provided by the person
- (4) Whether employee actions were in accordance with Department policy and procedures
- (5) A summary of the feedback provided to the employee

D. Seven Point Violator Contact

1. Absent some articulable reason for deviation, officers shall utilize the following seven-step action, in the order specified, when conducting motor vehicle stops.
 - a. Greeting and identifying the police officer and the police agency. The greeting is accomplished in the most natural way for the officer. He will introduce himself as Officer John Doe with the Venus Police Department. This is a courtesy we owe every person stopped. The objectives in the greeting are to employ business courtesy, to help make the person feel at ease, and to establish a common ground free of superiority or deference. Example: "Hello. I'm Officer Doe, with the Venus Police Department."
 - b. Stating the reason for the stop. This will be done upon initial contact as a basic courtesy. The officer should ascertain whether extenuating circumstances might morally justify the infraction to a normal, prudent person. This offers the individual stopped an opportunity to justify his actions if a reason exists and, if none, places him in the position of admitting the violation. Listen politely and allow the person ample opportunity to explain his perspective. However, with the above exception, one should refrain from asking questions concerning the person's knowledge of the violation committed. Remarks made by the officer should be in the form of a statement rather than a question. Example: "The reason your vehicle was stopped was for speeding, 55 in a 40 mph zone. Do you have an emergency?"
 - c. Identifying the individual detained and checking their condition as well as the vehicle. The officer should identify every individual stopped by requesting their driver license. If the person has no license, the officer should ask for other forms of identification, preferably one that carries the person's description. The officer should not accept an identification document if offered in a wallet, case or purse – ask the person to remove the document and accept that only. The officer, after identifying the person, should call him by name for the remainder of the interview.
 - d. State the action being taken. The officer should make a clear statement, in a firm but calm manner that will leave no doubt as to the action being taken. For example, "You are receiving a citation for the offense of speeding. Officers should refrain from using the word "I" during the interview. Place emphasis on the person and the violation committed by using the word "you". This technique keeps the person from shifting blame onto the officer. Officers have the option of informing the person of the action being taken during the first or second contact.
 - e. Taking the action. Issue the citation, take the person into custody, or call his attention to the seriousness of the violation and possible consequences (warning).
 - f. Explaining what the person is to do. Explain to the person exactly what action he must

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take. That is, he is to sign the citation and contact the court within a certain time frame, or, he is under arrest and will be required to post a cash bond, etc. In some cases a short explanation helps to dispel much of the uncertainty in the mind of the person detained. Make the explanation clear and be sure that the person understands. Example: "You will need to contact the Municipal Court within eleven (11) days to arrange for a court date and/or pay the fine."

- g. Leaving. Closing the contact with the person is awkward for many officers. It is an opportunity to create feelings of friendliness if the proper technique is used. An expression of helpfulness and service is desired. The leave-taking should be as firm and impersonal as the approach. A "take care" or "drive carefully" spoken in a sincere, yet business-like tone is sufficient. Do not use the trite expression, "have a nice day" or "good afternoon", which would be inappropriate in these circumstances. When the contact with the person has been broken, make sure the driver is able to merge safely back into the traffic stream.

E. Enforcement Action

1. Appropriate enforcement action should always be completed. A written warning, citation, juvenile notice/warning, or arrest should be made when probable cause exists. Verbal warnings may be issued when appropriate. Field Contact Information should be completed when the stop or detention was made based on reasonable suspicion and no other enforcement action will be taken.
2. No person, once cited or warned, shall be detained beyond the point where there exists no reasonable suspicion of further criminal activity, and no person or vehicle shall be searched in the absence of a warrant, a legally recognized exception to the warrant requirement, or the person's voluntary consent.

F. Mobile Digital Vehicle Recording (MDVR) Equipment

1. Officers shall ensure the MDVR and body camera are activated to record before the stop, to document the behavior of the vehicle or person. The MDVR and body camera shall remain activated until the person is released to resume their journey. Officers may elect not to activate the MDVR microphone as long as their body camera is activated and in working order throughout the contact.
2. Officers are responsible for ensuring the body camera and the vehicle's recording equipment are fully operational throughout their tour of duty. Any equipment failures or repairs needed should be immediately reported to a direct supervisor.
3. Should a MDVR or body camera fail during a motor vehicle stop or a stop is not recorded, the officer shall note such on the citation, the juvenile warning/notice, the written warning, arrest report, or Field Contact Information.
4. Body camera recordings and MDVR recordings shall be retained for a period of at least one-hundred and eighty (180) days, in accordance with Department policy. However, if a complaint is filed alleging an employee engaged in racial profiling with respect to a motor vehicle or pedestrian stop, the recording of the stop shall be retained until final disposition of the complaint. Upon the commencement of such a complaint, and pursuant to his or her written request, the officer who is the subject of the complaint shall be provided a copy of the

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recording.

G. Consent to Search

1. It is not necessary for a consent search to be supported by reasonable suspicion or probable cause. Voluntary consent to search may be utilized by officers for the search of both persons and property, and may be used at any point during the detention.
2. The officer should ask for consent to search a vehicle before the person detained is released and the initial detention is completed. However, any further detention or consent to search at this point must be completely voluntary by the driver or owner of the vehicle, or the person being detained.
3. Consent searches should only be conducted when consent is documented in writing or video/audio recording.

H. Reporting

1. When completing a citation, a written warning, a juvenile notice/warning, an adult or juvenile arrest report or a field contact information, officers shall report the following information:
 - a. The race and ethnicity of the individual detained as determined by the officer.
 - (1) Officers should avoid asking detained individuals what their race or ethnicity is.
 - b. Whether the officer knew the race or ethnicity of the individual detained before detaining that individual.
 - c. Whether a search was conducted, and, if so
 - d. Whether the individual detained consented to the search.
2. The Office of the Chief of Police shall submit to the Texas Commission on Law Enforcement Officer's Standards and Education and to the Office of the City Administrator, no later than March 1 of each year an annual report concerning citation and arrest data recorded in the preceding year.

For additional questions regarding the information presented in this report, please contact:

Del Carmen Consulting©
817.681.7840
www.texasracialprofiling.com
www.delcarmenconsulting.com

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City Council Agenda Item Report
February 12, 2024

Callie Green, City Secretary
972-366-3348 ext. 207
cgreen@cityofvenus.org

DISCUSS AND CONSIDER A RESOLUTION Ordering a Special Election on May 4, 2024 for the purpose of submitting to the qualified voters, for adoption or rejection, a proposition to discontinue certain land which is part of the municipality, and which is more particularly described by metes and bounds in the attached exhibit "a"; designating location of polling place; ordering notice of election to be given as prescribed by law in connection with such election; authorizing the Mayor to execute election agreements with Ellis county; providing a repealing clause; providing a severability clause and providing for an effective date.

1. **BACKGROUND/HISTORY:** The Mayor received a petition during public comment period to de-annex signed by more than 50 registered voters within our city limits on August 14, 2023 in regards to Bluestem Hills subdivision. All signatures were verified to be registered voters.
2. **FINDINGS / CURRENT ACTIVITY:** To de-annex out of city limits it has to be on the ballot to be voted on by all the registered voters. This item is to order the special election for Bluestem to be on the official ballot.
3. **RECOMMENDATIONS:** Council approve Resolution.
4. **ATTACHMENTS:** Resolution No. 03-2024-02 and Notice of Election.

RESOLUTION NO. 03-2024-01

AN RESOLUTION OF THE CITY OF VENUS, TEXAS ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 4, 2024 FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS, FOR ADOPTION OR REJECTION, A PROPOSITION TO DISCONTINUE CERTAIN LAND WHICH IS PART OF THE MUNICIPALITY, AND WHICH IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS IN THE ATTACHED EXHIBIT “A”; DESIGNATING LOCATION OF POLLING PLACE; ORDERING NOTICE OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH ELECTION; AUTHORIZING THE MAYOR TO EXECUTE ELECTION AGREEMENTS WITH ELLIS COUNTY; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VENUS, JOHNSON AND ELLIS COUNTY, TEXAS, THAT:

Section 1. A Special Election is hereby ordered for May 4, 2024, for the purpose of submitting to the qualified voters, for adoption or rejection, a proposition to discontinue certain land which is part of the Municipality, and which is more particularly described as Bluestem Hills and attached metes and bounds.

Section 2. Pursuant to the Joint Election Agreement, the Elections Administrator of Ellis County shall serve as Elections Administrator for the election. Presiding Election Judges and Alternate Presiding Election Judges appointed to serve the authorized polling places and the early voting clerk and deputy early voting clerks shall be those election officials furnished by the Elections Administrator from the list of proposed election judges as required in the Elections Services Contract. For the City of Venus, Johnson County residents the City Secretary is the early voting clerk. The City Administrator and City Secretary are hereby authorized to execute an Elections Services Contract with the Ellis County Elections Department for the Special Election on May 4, 2024. The City Secretary shall have further authority to approve any minor modifications as may be necessary in the best interest of the City. A voting system or systems meeting the standards and requirements of the Texas Election Code, as amended, is hereby adopted, and approved for early voting by personal appearance and by mail and for election day voting.

Section 3. Notice of the Special Election shall be posted on the bulletin board used to post notice of the City Council meetings and be published in a newspaper of general circulation in the City. That said Notice must be published at least once, not earlier than the 30th day nor later than the 10th day, before Election Day as provided in Section 4.003(a)(1) of the Texas Election Code. A copy of the published Notice that contains the name of the newspaper and the date of publication shall be retained as a record of such notice, and the person posting the Notice shall make a record of the time of posting, starting date, and the place of posting.

Section 4. The election officers and maximum number of clerks for said polling place shall be determined and appointed in accordance with the provisions of the Contract.

On Election Day, the polls shall be open from 7:00 A.M. to 7:00 P.M.

Early voting by personal appearance for Johnson County voters shall also be conducted at the Venus Civic Center located at 210 S. Walnut Street, Venus, Texas 76084. Early voting hours shall be as follows:

Early Voting Hours (Johnson County):

Monday-Friday	April 22 – April 26, 2024	8:00 a.m. to 5:00 p.m.
Saturday	April 27, 2024	10:00 a.m. to 2:00 p.m.
Monday	April 29, 2024	8:00 a.m. to 5:00 p.m.
Tuesday	April 30, 2024	7:00 a.m. to 7:00 p.m.

For Ellis County voters, the main voting location will be the Ellis County Woman's Building (Davis Hall) 407 W. Jefferson Street, Waxahachie, Texas 75165, as well as other locations listed in Exhibit A. Early voting hours shall be as follows:

Early Voting Hours (Ellis County):

Monday – Friday	April 22 – April 26, 2024	8:00 a.m. to 5:00 p.m.
Saturday	April 27, 2024	8:00 a.m. to 4:00 p.m.
Monday – Tuesday	April 29 – April 30, 2024	7:00 a.m. to 7:00 p.m.

Early voting location and times may be changed, or additional early voting locations may be added by the City Secretary or Ellis County Elections Administrator without further action of the City Council or amendment to this Resolution, as is necessary for the proper conduct of the Election.

Applications for ballot by mail shall be received and processed by:

For Johnson County voters send to, Early Voting Clerk. P.O. Box 380, Venus, Texas 76084.

For Ellis County voters sent to, Jana Onyon, Early Voting Clerk, 204 E. Jefferson St. Waxahachie, TX 75165.

Applications for ballots by mail must be received no later than the close of business on April 23, 2024.

For purposes of processing ballots cast in early voting, the election officers for the early voting ballot board for this election shall be appointed and designated in accordance with the provisions of the Contract.

Section 5. BALLOT.

The official ballot to be used in the Election shall be prepared in accordance with Sections 501.035 and 501.109 of the Texas Election Code. The ballot shall permit the voter to vote "For" or "Against" the below mentioned proposition and shall be set forth substantially in the following form:

PROPOSITION A

THE DISCONTINUING OF LAND (DEANNEXATION) AS A PART OF THE CITY OF VENUS WHICH IS DESCRIBED BY METES AND BOUNDS AND IS ALSO KNOWN AS BLUESTEM HILLS: Being a 81.10 acre tract of land situated in the LEEMAN KELSEY SURVEY ABSTRACT No.

594. Ellis County, Texas, consisting of three tracts of land as conveyed by deed to Arbor Road Partners, LTD. (26.01 Acres) as recorded In Volume 2053 Page 1524 and John Tysseling (52.99 Acres and Lot 7, Block C Sunset Meadows Phase One 2.10 Acres) as recorded in Volume 2150 Page 1631-1634 of the Deed Records of Ellis County, Texas and being more particularly described by metes and bounds as follows:

Beginning at a found $\frac{1}{2}$ " iron rod located at the Southeast corner of said Lot 7 Block C of Sunset Meadows Phase One. as recorded in Cabinet F, Slide 357 P.R.E.C. T. said iron rod is also situated on the North Right-of-Way line of Marion Road.

THENCE S 59°26'10" W ALONG THE NORTH ROW LINE OF MARIOND ROAD A DISTANCE OF 30'40" TO A FOUND $\frac{1}{4}$ " IRON ROD LOCATED AT THE SOUTHEAST CORNER OF SAID LOT 7 BLOCK C SUNSET MEADOWS PH-I FOR A CORNER.

THENCE N 30°41'05" W ALONG THE WEST LINE OF LOT 7 BLOCK C SUNSET MEADOWS PH-I, A DISTANCE OF 301.94' TO A FOUND $\frac{1}{2}$ " IRON ROD SITUATED AT THE COMMON CORNER OF LOT 7 & LOT 6 BLOCK C OF SUNSET MEADOWS PH-I FOR A CORNER;

THENCE S 58°30'45" W ALONG THE NORTH LINE OF BLOCK C, SUNSET MEADOWS PH-I, A DISTANCE OF 1003.91' TO A FOUND 3" STEEL POST LOCATED AT THE NORTHEAST CORNER OF LOT 2, BLOCK A OF WILL STAR ESTATES, AS RECORDED IN INST. No. 1529317 P.R.E.C.T. FOR A CORNER;

THENCE S 60°06'14" W ALONG THE NORTH LINE OF SAID WILL STAR ESTATES, A DISTANCE OF 387. n. TO A SET $\frac{1}{2}$ " IRON ROD WITH YELLOW FORT WORTH SURVEYIN G CAP FOR A CORNER;

THENCE N 30°07'43" W A DISTANCE OF 100.00' TO A SET $\frac{1}{2}$ " IRON ROD WITH YELLOW FORT WORTH SURVEYING CAP FOR A CORNER;

THENCE S 59°21'20" W A DISTANCE OF 95.72' TO A SET $\frac{1}{2}$ " IRON ROD WITH YELLOW FORT WORTH SURVEYING CAP FOR A CORNER, LOCATED ON THE EAST RIGHT-OF-WAY LINE OF FM157, AND THE BEGINNING OF A CURVE TO THE LEFT.

THENCE WITH A CURVE TURNING TO THE LEFT AND ALONG THE EAST R.O.W. LINE OF FM 157 WITH A RADIUS OF 5774.58' AN ARC LENGTH OF 217.54' AND WHOSE CHORD BEARS N 28°58'25" W A DISTANCE OF 217.53' TO A SET $\frac{1}{2}$ " IRON ROD WITH YELLOW FORT WORTH SURVEYING CAP FOR A CORNER;

THENCE N 30°03'11" W CONTINUING ALONG THE EAST R.O.W. LINE OF FM 157 A DISTANCE OF 1225.30' TO A SET $\frac{1}{2}$ " IRON ROD WITH YELLOW FORT WORTH SURVEYING CAP FOR A CORNER;

THENCE N 25°22'53" W ALONG THE EAST R.O.W. LINE OF FM 157 A DISTANCE OF 184.17' TO A SET ¼" IRON ROD WITH YELLOW FORT WORTH SURVEYING CAP FOR A CORNER;

THENCE N 31°14'13" W ALONG THE EAST R.O.W. LINE OF FM 157 A DISTANCE OF 209.50' TO A FOUND ½" IRON ROD FOR A CORNER LOCATED AT THE SOUTHEAST CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED BY DEED TO ENDEAVOR ENERGY AS RECORDED IN VOLUME 2409 PAGE 1685 D.R.E.C.T.;

THENCE N. 58°30'14" E ALONG THE NORTH LINE OF THIS TRACT AND THE SOUTH LINE OF SAID ENDEAVOR ENERGY TRACT A DISTANCE OF 1754.48' TO A FOUND 112" IRON ROD LOCATED ON THE WEST LINE OF RANCHVIEW ESTATES PHASE III, AS RECORDED IN CABINET C SLIDES 679-680, P.R.E.C.T.;

THENCE S 30°41'46" E ALONG THE WEST LINE OF RANCHVIEW ESTATES PHASE III A DISTANCE OF 200.92' TO A FOUND 112" IRON ROD FOR A CORNER;

THENCE S 30°42'43" E ALONG THE WEST LINE OF RANCHVIEW ESTATES PHASE III A DISTANCE OF 529.42' TO A FOUND ½" IRON ROD FOR A CORNER;

THENCE S 30°39'07" E ALONG THE WEST LINE OF RANCHVIEW ESTATES PHASE III A DISTANCE OF 547.85' TO A FOUND ½" IRON ROD LOCATED AT THE NORTHWEST CORNER OF LOT 1 RANCHVIEW ESTATES PHASE I, AS RECORDED IN CABINET C SLIDES 285-286, P.R.E.C.T.

THENCE S 30°29'04" E ALONG THE WEST LINE OF RANCHVIEW ESTATES PHASE I A DISTANCE OF 668.97' TO A FOUND ½" IRON ROD, FOR A CORNER;

THENCE S 30°49'28" E CONTINUING ALONG THE WEST LINE OF RANCHVIEW ESTATES PHASE I A DISTANCE OF 307.20' WHICH IS THE POINT OF BEGINNING HAVING AN AREA OF 81.10 ACRES OF LAND MORE OR LESS.

For _____

Against _____

The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 6. The City Secretary shall present the Special Election returns to the City Council at a Council meeting for the canvassing of said election in accordance with the Texas Election Code.

Section 7. This Resolution shall take effect immediately upon its passage.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
VENUS, TEXAS, ON THIS 12th DAY OF FEBRUARY 2024.**

APPROVED:

Alejandro Galaviz, Mayor

ATTEST:

Callie Green, City Secretary

NOTICE OF SPECIAL ELECTION FOR MUNICIPALITIES AVISO DE ELECCIÓN GENERAL PARA MUNICIPIOS

To the registered voters of the County of Johnson & Ellis, City of Venus, Texas:
(*A los votantes registrados de los Condados de Johnson & Ellis, Ciudad de Venus, Texas:*)

Notice is hereby given that the polling (voting) locations listed below will be open on May 4, 2024, from 7:00 a.m. to 7:00 p.m., for voting in a special election for the purpose of submitting to the qualified voters, for adoption or rejection, a proposition to discontinue certain land which is part of the Municipality, and which is more particularly described by metes and bounds and is also known as Bluestem Hills.

Being a 81.10 acre tract of land situated in the LEEMAN KELSEY SURVEY ABSTRACT No.594. Ellis County, Texas, consisting of three tracts of land as conveyed by deed to Arbor Road Partners, LTD. (26.01 Acres) as recorded In Volume 2053 Page 1524 and John Tysseling (52.99 Acres and Lot 7, Block C Sunset Meadows Phase One 2.10 Acres) as recorded in Volume 2150 Page 1631-1634 of the Deed Records of Ellis County, Texas and being more particularly described by metes and bounds as follows:

Beginning at a found ½" iron rod located at the Southeast corner of said Lot 7 Block C of Sunset Meadows Phase One, as recorded in Cabinet F, Slide 357 P.R.E.C. T. said iron rod is also situated on the North Right-of-Way line of Marion Road.

THENCE S 59°26'10" W ALONG THE NORTH ROW LINE OF MARIOND ROAD A DISTANCE OF 301.40' TO A FOUND ½" IRON ROD LOCATED AT THE SOUTHEAST CORNER OF SAID LOT 7 BLOCK C, SUNSET MEADOWS PH-I FOR A CORNER;

THENCE N 30°41'05" W ALONG THE WEST LINE OF LOT 7, BLOCK C, SUNSET MEADOWS PH-I, A DISTANCE OF 301.94' TO A FOUND ½" IRON ROD SITUATED AT THE COMMON CORNER OF LOT 7 & LOT 6, BLOCK C, OF SUNSET MEADOWS PH-I FOR A CORNER;

THENCE S 58°30'45" W ALONG THE NORTH LINE OF BLOCK C, SUNSET MEADOWS PH-I, A DISTANCE OF 1003.91' TO A FOUND 3" STEEL POST, LOCATED AT THE NORTHEAST CORNER OF LOT 2, BLOCK A OF WILL STAR ESTATES, AS RECORDED IN INSTRUMENT No. 1529317, P.R.E.C.T. FOR A CORNER;

THENCE S 60°06'48" W ALONG THE NORTH LINE OF SAID WILL STAR ESTATES, A DISTANCE OF 263.84' TO A SET ½" IRON ROD WITH YELLOW FORT WORTH SURVEYING CAP FOR A CORNER;

THENCE N 30°07'43" W A DISTANCE OF 100.00' TO A SET ½" IRON ROD WITH YELLOW FORT WORTH SURVEYING CAP FOR A CORNER;

THENCE S 59°21'20" W A DISTANCE OF 95.72' TO A SET ½" IRON ROD WITH YELLOW FORT WORTH SURVEYING CAP FOR A CORNER, LOCATED ON THE EAST RIGHT-OF-WAY LINE OF FM 157, AND THE BEGINNING OF A CURVE TO THE LEFT.

THENCE WITH A CURVE TURNING TO THE LEFT AND ALONG THE EAST R.O.W. LINE OF FM 157 WITH A RADIUS OF 5774.58' AN ARC LENGTH OF 217.54' AND WHOSE CHORD BEARS N 28°58'25" W A DISTANCE OF 217.53' TO A SET ½" IRON ROD WITH YELLOW FORT WORTH

SURVEYING CAP FOR A CORNER;

THENCE N 30°03'11" W CONTINUING ALONG THE EAST R.O.W. LINE OF FM 157 A DISTANCE OF 1225.30' TO A SET ½" IRON ROD WITH YELLOW FORT WORTH SURVEYING CAP FOR A CORNER;

THENCE N 25°22'53" W ALONG THE EAST R.O.W. LINE OF FM 157 A DISTANCE OF 181.54' TO A SET ½" IRON ROD WITH YELLOW FORT WORTH SURVEYING CAP FOR A CORNER;

THENCE N 31°14'13" W ALONG THE EAST R.O.W. LINE OF FM 157 A DISTANCE OF 209.50' TO A FOUND ½" IRON ROD FOR A CORNER LOCATED AT THE SOUTHEAST CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED BY DEED TO ENDEAVOR ENERGY AS RECORDED IN VOLUME 2409 PAGE 1685 D.R.E.C.T.;

THENCE N. 58°30'14" E ALONG THE NORTH LINE OF THIS TRACT AND THE SOUTH LINE OF SAID ENDEAVOR ENERGY TRACT A DISTANCE OF 1754.48' TO A FOUND ½" IRON ROD LOCATED ON THE WEST LINE OF RANCHVIEW ESTATES PHASE III, AS RECORDED IN CABINET C SLIDES 679-680, P.R.E.C.T.;

THENCE S 30°41'46" E ALONG THE WEST LINE OF RANCHVIEW ESTATES PHASE III A DISTANCE OF 200.92' TO A FOUND ½" IRON ROD FOR A CORNER;
THENCE S 30°42'43" E ALONG THE WEST LINE OF RANCHVIEW ESTATES PHASE III A DISTANCE OF 529.42' TO A FOUND ½" IRON ROD FOR A CORNER;

THENCE S 30°39'07" E ALONG THE WEST LINE OF RANCHVIEW ESTATES PHASE III A DISTANCE OF 547.85' TO A FOUND ½" IRON ROD LOCATED AT THE NORTHWEST CORNER OF LOT 1 RANCHVIEW ESTATES PHASE I, AS RECORDED IN CABINET C SLIDES 285-286, P.R.E.C.T.

THENCE S 30°29'04" E ALONG THE WEST LINE OF RANCHVIEW ESTATES PHASE I A DISTANCE OF 668.97' TO A FOUND ½" IRON ROD, FOR A CORNER;

THENCE S 30°49'28" E CONTINUING ALONG THE WEST LINE OF RANCHVIEW ESTATES PHASE I A DISTANCE OF 307.20' WHICH IS THE POINT OF BEGINNING HAVING AN AREA OF 81.10 ACRES OF LAND MORE OR LESS.

AVISO DE ELECCIÓN GENERAL PARA MUNICIPIOS

A los votantes registrados de los Condados Johnson & Ellis, Ciudad de Venus, Texas:

(Notificación por la presente, que los sitios de votación listados abajo se abrirán el 4 de mayo del 2024 desde las 7:00 a.m. hasta las 7:00 p.m., para votar en la elección especial para el propósito de someter a los votantes calificados, para adoptar o rechazar, una propuesta para descontinuar cierto territorio que es parte de la Municipalidad, el cual es particularmente descrito por medidas y límites y es también conocido como Bluestem Hills.

Siendo 81.10 acres de extensión de tierra situada en el ABSTRACTO TOPOGRÁFICO LEEMAN KELSEY No. 594. Condado Ellis, Texas, Texas, consistiendo de tres extensiones de tierra tal como se transmiten por escritura a Arbor Road Partners, LTD. (26.01 Acres) como se registró en Volumen 2053, Página 1524 y John Tyseeling (52.99 Acres y Lot 7, Bloque C, Sunset Meadows Fase Uno, 2.10 Acres) como se registró en Volumen 2150, Página 1631-1634 de los registros de escrituras del Condado Ellis, Texas y siendo particularmente descrito por medidas y límites a continuación:

Comenzando en una barra de hierro de ½" localizada en esquina Sureste de dicho Lote 7, Bloque C, de Sunset Meadows, Fase Uno como se registró en el Gabinete F, Corredera 357, P. R. E. C. T. dicha barra de hierro esta también situada sobre la línea Norte del Derecho-de-Vía de Marion Road.

ALLÍ S 59°26'10" O A LO LARGO DE LA LÍNEA NORTE DEL DERECHO-DE-VÍA DE MARION ROAD UNA DISTANCIA DE 301.40' A UNA BARRA DE HIERRO DE 1/2" LOCALIZADA EN LA ESQUINA SURESTE DE DICHO LOTE 7, BLOQUE C, SUNSET MEADOWS FASE I PARA UNA ESQUINA;

ALLÍ N 30°41'05" O A LO LARGO DE LA LINEA OESTE DEL LOTE 7, BLOQUE C, SUNSET MEADOWS FASE I, UNA DISTANCIA DE 301.94' HACIA UNA BARRA DE HIERRO ENCONTRADA DE ½" SITUADA EN LA ESQUINA EN COMUN DE LOTE 7 & LOTE 6, BLOQUE C, DE SUNSET MEADOWS PHASE I PARA UNA ESQUINA;

ALLÍ S 58°30'45" O A LO LARGO DE LA LÍNEA NORTE DE BLOQUE C, SUNSET MEADOWS PHASE I, UNA DISTANCIA DE 1003.91' HACIA UN POSTE ENCONTRADO DE ACERO DE 3" LOCALIZADO EN LA ESQUINA NORESTE DE LOTE 3, BLOQUE A, DE WILL STAR ESTATES, COMO SE REGISTRO EN INSTRUMENTO No. 1529317 P. R. E. C. T. PARA UNA ESQUINA;

ALLÍ S 60°06'148" O A LO LARGO DE LA LÍNEA NORTE DE DICHO WILL STAR ESTATES, UNA DISTANCIA DE 263.84'. HACIA UNA BARRA DE HIERRO DE ½" CON UNA CUBIERTA AMARILLA DE FORT WORTH SURVEYING PARA UNA ESQUINA;

ALLÍ N 30°07'43" O UNA DISTANCIA DE 100.00' HACIA UNA BARRA DE HIERRO COLOCADA CON UNA CUBIERTA AMARILLA DE FORT WORTH SURVEYING PARA UNA ESQUINA;

ALLÍ S 59°21'20" O UNA DISTANCIA DE 95.72' HACIA UNA BARRA DE HIERRO COLOCADA DE ½" CON UNA CUBIERTA AMARILLA DE FORT WORTH SURVEYING PARA UNA ESQUINA, LOCALIZADA SOBRE EL ESTE DE LA LÍNEA DEL DERECHO-DE-VÍA DE FM 157, Y EL COMIENZO DE UNA CURVA A LA IZQUIERDA.

ALLÍ CON UNA CURVA VOLTEANDO A LA IZQUIERDA Y A LO LARGO DE LA LÍNEA ESTE DEL DERECHO-DE-VÍA DE FM 157 CON UN RADIO DE 5774.58' UN ARCO CON LONGITUD DE 217.54' Y DEL CUAL SOPORTA UN ACORDE N 28°58'25" O UNA DISTANCIA DE 217.53' HACIA UNA BARRA DE HIERRO DE ½" CON UNA CUBIERTA AMARILLA DE FORT WORTH SURVEYING PARA UNA ESQUINA;

ALLÍ N 30°03'11" O CONTINUANDO A LO LARGO DE LA LÍNEA ESTE DEL DERECHO DE VÍA DE FM 157 UNA DISTANCIA DE 1225.30' HACIA UNA BARRA DE HIERRO DE ½" CON UNA CUBIERTA AMARILLA DE FORT WORTH SURVEYING PARA UNA ESQUINA;

ALLÍ N 25°22'53" O A LO LARGO DE LA LÍNEA ESTE DEL DERECHO-DE-VÍA DE FM 157 UNA DISTANCIA DE 181.54' HACIA UNA BARRA DE HIERRO DE ½" COLOCADA CON UNA CUBIERTA AMARILLA DE FORT WORTH SURVEYING PARA UNA ESQUINA;

ALLÍ N 31°14'13" O A LO LARGO DE LA LÍNEA ESTE DEL DERECHO-DE-VÍA DE FM 157 UNA DISTANCIA DE 209.50' HACIA UNA BARRA DE HIERRO DE ½" ENCONTRADA LOCALIZADA EN LA ESQUINA SURESTE DE ESA EXTENSIÓN DE TIERRA TRANSMITIDA POR ESCRITURA A ENDEAVOR ENERGY COMO SE REGISTRO EN EL VOLUMEN 2409, PÁGINA 1685 D. R. E. C. T.;

ALLÍ N 58°30'14" E A LO LARGO DE LA LÍNEA NORTE DE ESTA EXTENSIÓN Y DE LA LÍNEA SUR DE DICHO ENDEAVOR ENERGY EXTENSIÓN DE UNA DISTANCIA DE 1754.48' HACIA UNA BARRA DE HIERRO DE ½" ENCONTRADA, LOCALIZADA EN LA LÍNEA OESTE DE LA FASE III DE RANCHVIEW ESTATES, COMO SE REGISTRO EN EL GABINETE C, CORREDERA 679-680, P. R. E. C. T.;

ALLÍ S 30°41'46" E A LO LARGO DE LA LÍNEA OESTE DE LA FASE III DE RANCHVIEW ESTATES UNA DISTANCIA DE 200.92' HACIA UNA BARRA DE HIERRO ENCONTRADA DE ½" PARA UNA ESQUINA;

ALLÍ S 30°42'43" E A LO LARGO DE LA LÍNEA E A LO LARGO DE LA LÍNEA OESTE DE LA FASE III DE RANCHVIEW ESTATES UNA DISTANCIA DE 529.42' HACIA UNA BARRA DE HIERRO ENCONTRADA DE ½" PARA UNA ESQUINA;

ALLÍ S 30°39'07" E A LO LARGO DE LA LÍNEA OESTE DE LA FASE III DE RANCHVIEW ESTATES UNA DISTANCIA DE 547.85' HACIA UNA BARRA DE HIERRO ENCONTRADA DE ½" LOCALIZADA EN LA ESQUINA NOROESTE DE LOTE 1, RANCHVIEW ESTATES FASE I, COMO SE REGISTRO EN EL GABINETE C, CORREDERAS 285-286, P. R. E. C. T.

ALLÍ S 30°29'04" E A LO LARGO DE LA LÍNEA OESTE DE LA FASE I, RANCHVIEW ESTATES UNA DISTANCIA DE 668.97' HACIA UNA BARRA DE HIERRO DE ½" ENCONTRADA PARA UNA ESQUINA;

ALLÍ S 30°49'28" E CONTINUANDO A LO LARGO DE LA LÍNEA OESTE DE LA FASE I DE RANCHVIEW ESTATES UNA DISTANCIA DE 307.20' LA CUAL ES EL PUNTO DE COMIENZO TENIENDO UN AREA DE 81.10 ACRES DE TIERRA MAS O MENOS.

On Election Day, voters may vote at the following voting location listed below:
(El día de las elecciones, los votantes pueden votar en los siguientes lugares de votación que se enumeran a continuación:)

Election Day Voting Location- **Johnson County voters**
(sitios de votación el Día de Elección- votantes del Condado Johnson)

Venus Civic Center (Main Room) 210 S. Walnut, Venus, TX 76084

Election Day Voting Location- **Ellis County voters**
(sitios de votación el Día de Elección- votantes del Condado Ellis)

Locations pending (Sitios pendientes por confirmar)

Main Location: Ellis County Women's Building (Davis Hall) 407 W. Jefferson Street, Waxahachie, TX 75165
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Midlothian Conference Center (Ballroom) 1 Community Circle Drive, Midlothian, TX 76065
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Midlothian Church Of Christ (Fellowship Hall) 1627 N HWY 67, Midlothian TX 76065
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First Baptist Church- Maypearl (Fellowship Hall) 5744 FM 66, Maypearl, TX 76064

Voting at any other Ellis County Vote Center Polling location

During Early Voting, voters may vote at the following voting location listed below:
(Durante Votación Adelantada, los votantes podrán votar en cualquiera de los sitios de votación listados abajo:)

Early Voting Location, Days and Hours- **Johnson County Voters**
(Sitios de Votación adelantada, Días y Horas- votantes del Condado Johnson)

Locations (sitios)

Main Location: Venus Civic Center (Main Room) 210 S. Walnut, Venus, TX 76084

Days and Hours (Días y Horas)

Monday, April 22, 2024 through Friday, April 26, 2024 lunes, 22 de abril de 2024 hasta viernes, 26 de abril de 2024
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8:00 AM to 5:00 PM

Saturday, April 27, 2024 <i>sábado, 27 de abril de 2024</i>	10:00 AM to 2:00 PM
Monday, April 29, 2024 <i>lunes, 29 de abril de 2024</i>	8:00 AM to 5:00 PM
Tuesday, April 30, 2024 <i>martes, 30 de abril de 2024</i>	7:00 AM to 7:00 PM

Early Voting Location, Days and Hours – **Ellis County voters**
(*Sitios de Votación adelantada, Días y Horas- votantes del Condado Ellis*)

Locations (*sitios*)

Main Location: Ellis County Women's Building (Davis Hall) 407 W. Jefferson Street, Waxahachie, TX 75165
Midlothian Conference Center (Lobby) 1 Community Circle Drive, Midlothian, TX 76065
Voting at any other Ellis County Vote Center Polling location

Locations pending (*Sitios pendientes por confirmar*)

Days and Hours (*Días y Horas*)

Monday, April 22, 2024 through Friday, April 26, 2024 <i>lunes, 22 de abril de 2024 hasta viernes, 26 de abril de 2024</i>	8:00 AM to 5:00 PM
Saturday, April 27, 2024 <i>sábado, 27 de abril de 2024</i>	8:00 AM to 4:00 PM
Monday, April 29, 2024 and Tuesday, April 30, 2024 <i>lunes, 29 de abril de 2024 y martes, 30 de abril de 2024</i>	7:00 AM to 7:00 PM

Applications (**Johnson County**) for ballot by mail shall be mailed to:
(*Las solicitudes para boletas de manera adelantada por correo deberán enviarse a:*)

Callie Green, City Secretary
700 W. HWY 67
Venus, TX 76084
Phone: (972) 366-3348
Email: cgreen@cityofvenus.org
Website: <https://www.cityofvenus.org/>

Applications (**Ellis County**) for ballot by mail shall be mailed to:
(*Las solicitudes para boletas de manera adelantada por correo deberán enviarse a:*)

Jana Onyon, Elections Administrator
204 E. Jefferson Street
Waxahachie, TX 75165
Phone: (972) 825-5195
Email: elections@co.ellis.tx.us
Website: <http://co.ellis.tx.us/elections>

Applications for Ballots by Mail (ABBM)s must be received no later than the close of business on:
(*Las solicitudes para Boletas de manera adelantada por correo deberán recibirse a no más tardar de las horas de negocio el:*)

Tuesday, April 23, 2024 (*martes, 23 de abril de 2024*)

Federal Post Card Applications (FPCAs) must be received no later than the close of business on:
(*Las Tarjetas Federales Postales de Solicitud deberán recibirse a no más tardar de las horas de negocio el:*)

Tuesday, April 23, 2024 (*martes, 23 de abril de 2024*)

Issued this 12th day of February, 2024.
Emitida este día 12 de Febrero de 2024.

Signature of Mayor (*Firma del Alcalde*)



City Council Agenda Item Report
Interim City Administrator James Groom
972-366-3547
jgroom@cityofvenus.org

February 12th, 2024

DISCUSS AND CONSIDER: Approving CPI-U rate adjustment for Frontier Waste as outlined in the current contract.

BACKGROUND/HISTORY: Frontier Waste has been our solid waste and recycling provider since 2019. Their contract ran for three years, concluding on April 8th, 2022. The agreement automatically renewed for three additional years based on the contract and terminates on April 8th, 2025.

FINDINGS / CURRENT ACTIVITY: Based on the language in Section 10 of the contract, Frontier Waste has notified the city of a Consumer Price Index rate adjustment based on rising inflation numbers during the past year. The language of the contract allows this type of rate adjustment without any type of input from the city. Staff needs approval of the Council to raise the rates based on the adjustment from Frontier.

Residential Rate for example will go from \$16.76 to \$17.38 (62 cent increase).

The CPI-U shows an increase of 3.72% from December 2022 to November 2023. This is the amount that Frontier Waste has notified staff that the rates would increase by.

Customers will be notified via water billing newsletter, Facebook, and other routine ways that City staff makes notifications.

RECOMMENDATIONS: Approve the rate adjustment to be signed by the Mayor as outlined in the attachments.

ATTACHMENTS: Frontier Waste contract, BLS CPI-U data, Frontier Waste Solutions Solid Waste Price Increase notification, and Frontier Waste trash rate proposal

Consumer Price Index for All Urban Consumers (CPI-U) Original Data Value

Series Id: CUUR0300SA0,CUUS0300SA0

Not Seasonally Adjusted

Series Title: All items in South urban, all urban consumers, not

Area: South

Item: All items

Base Period: 1982-84=100

Years: 2013 to 2023

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2013	223.933	225.874	226.628	226.202	226.289	227.148	227.548	227.837	227.876	227.420	226.811	227.082	226.721	226.012	227.429
2014	227.673	228.664	230.095	231.346	231.762	232.269	232.013	231.611	231.762	231.131	229.845	228.451	230.552	230.302	230.802
2015	226.855	227.944	229.337	229.957	230.886	232.026	231.719	231.260	230.913	230.860	230.422	229.581	230.147	229.501	230.793
2016	229.469	229.646	230.977	231.975	232.906	233.838	233.292	233.561	234.069	234.337	234.029	234.204	232.692	231.469	233.915
2017	235.492	236.052	236.154	236.728	236.774	237.346	236.942	237.892	239.649	239.067	238.861	238.512	237.456	236.424	238.487
2018	239.772	241.123	241.595	242.486	243.279	243.770	243.776	243.605	243.640	244.163	243.484	242.150	242.737	242.004	243.470
2019	242.547	243.856	245.554	246.847	246.667	246.515	247.250	246.953	246.891	247.423	247.385	247.289	246.265	245.331	247.199
2020	248.005	248.412	248.136	246.254	245.696	247.223	248.619	249.639	250.193	250.542	250.255	250.693	248.639	247.288	249.990
2021	252.067	253.386	255.319	257.207	259.343	261.668	263.013	263.728	264.593	267.160	268.360	269.263	261.259	256.498	266.020
2022	271.634	274.688	278.598	279.879	283.307	287.427	287.608	287.168	287.656	288.836	288.991	288.205	283.666	279.256	288.077
2023	290.438	292.285	293.358	295.315	295.889	296.789	297.279	298.975	299.657	299.394	298.930			294.012	

EXCLUSIVE FRANCHISE AGREEMENT
FOR THE COLLECTION, HAULING, RECYCLING AND DISPOSAL OF
MUNICIPAL SOLID WASTE, CONSTRUCTION AND DEMOLITION WASTE, AND
RECYCLABLE MATERIALS
IN THE CITY OF VENUS, TEXAS

APRIL 9, 2019

**EXCLUSIVE FRANCHISE AGREEMENT
FOR THE COLLECTION, HAULING, RECYCLING AND DISPOSAL OF
MUNICIPAL SOLID WASTE, CONSTRUCTION AND DEMOLITION WASTE AND
RECYCLABLE MATERIALS
IN THE CITY OF VENUS, TEXAS**

STATE OF TEXAS

COUNTY OF JOHNSON

THIS EXCLUSIVE FRANCHISE AGREEMENT (this "Agreement") is made and entered into as of April 9, 2019, by and between Frontier Access, LLC, a Delaware limited liability company (the "Service Provider"), and the City of Venus, Texas (the "City").

WHEREAS, the City, subject to the terms and conditions set forth herein and the ordinances and regulations of the City, desires to grant to the Service Provider the exclusive franchise, license and privilege to collect, haul and recycle or dispose of Municipal Solid Waste, Construction and Demolition Waste and Recyclable Materials (as such terms are defined herein) within the City's corporate limits.

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

SECTION 1. DEFINED TERMS.

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

Bulky Item Any item not measuring in excess of either fortyeight (48) inches in length or fifty (50) pounds in weight, including, but not limited to, refrigerators, stoves, washing machines, water tanks, chairs, couches, and other similar household items.

Bundles Items not measuring in excess of either fortyeight (48) inches in length or fifty (50) pounds in weight and which are securely fastened together, including, but not limited to, brush, newspapers, and tree trimmings.

Business Day - Any day that is not a Saturday, a Sunday, or other day on which banks are required or authorized by law to be closed in the City.

Commercial Unit Any non-manufacturing commercial facility that generates and accumulates Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials during, or as a result of, its business, including, but not limited to, restaurants, stores and warehouses.

Construction and Demolition Waste Solid Waste resulting from construction or demolition activities or that is directly or indirectly the byproduct of such activities, including, but not limited to, cartons, concrete, excelsior, gypsum board, metal, paper, plastic, rubber and wood

products. Construction and Demolition Waste does not include Hazardous Waste, Municipal Solid Waste, Recyclable Materials or Bulky Items.

Container Any receptacle, including, but not limited to, dumpsters, Roll-Offs and Roll-Outs, provided to the City by the Service Provider and utilized by a Commercial, Industrial or Residential Unit for collecting Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials. Containers are designed to hold between ninety-five (95) gallons and forty (40) cubic yards of Solid Waste.

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

Handicapped Residential Unit - Any residential dwelling that is inhabited by persons, all of whom are physically handicapped to the extent that they are unable to place Municipal Solid Waste or Recyclable Materials at the curbside, and that generates and accumulates Municipal Solid Waste and Recyclable Materials. The identities of the members of a Handicapped Residential Unit shall be certified by the City Manager and agreed to by the Service Provider.

Holidays - The following days:

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

Industrial Unit - Any manufacturing, mining or agricultural facility that generates and accumulates Municipal Solid Waste, Construction and Demolition Waste, or Recyclable Materials during, or as a result of, its operations.

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

MultiFamily Residential Unit Any residential dwelling that is designed for, and inhabited by, multiple family units and that generates and accumulates Municipal Solid Waste and Recyclable Materials.

Municipal Solid Waste Solid Waste resulting from or incidental to municipal, community, commercial, institutional or recreational activities, or manufacturing, mining, or agricultural operations. Municipal Solid Waste does not include Construction and Demolition Waste or Hazardous Waste.

Recyclable Materials

- (a) Newspapers, magazines, and catalogs, and other paper items such as mail, paper bags or other paper;
- (b) Metal cans composed of tin, steel or aluminum (excluding scrap metal); and
- (c) Plastic containers including all varieties of the types designated as #1, #2, #3, #4, #5 and #7.

Recycling Container – A Container with at least eighteen (18) gallons of capacity and provided by the Service Provider for the collection of Recyclable Materials.

Residential Unit - Any residential dwelling that is either a Single-Family Residential Unit or a Multi-Family Residential Unit.

Roll-Off A Container with twenty (20) cubic yards to forty (40) cubic yards of capacity.

Roll-Out A Container with ninety-five (95) gallons of capacity.

Single-Family Residential Unit Any residential dwelling that is designed for, and inhabited by, a single person or family unit and that generates and accumulates Municipal Solid Waste and Recyclable Materials.

Small Commercial Unit Any Commercial Unit that requires no more than three (3) Roll-Outs per week for the collection of its Municipal Solid Waste.

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

White Good Any item not measuring in excess of either three (3) cubic feet in size or fifty (50) pounds in weight and that is manufactured primarily from metal, including, but not limited to, a bath tub, heater, hot water heater, refrigerator, sink or washer and dryer.

SECTION 2. EXCLUSIVE FRANCHISE GRANT.

The City hereby grants to the Service Provider, in accordance with the City's ordinances and regulations governing the collection, hauling, recycling and disposal of Municipal Solid Waste, Construction and Demolition Waste and Recyclable Materials, the exclusive franchise, license and privilege to collect, haul and recycle or dispose of Municipal Solid Waste, Construction and Demolition Waste and Recyclable Materials over, upon, along and across the City's present and future streets, alleys, bridges and public properties. In order to maintain the exclusive franchise in favor of the Service Provider contained herein, the City shall take any and all appropriate legal action against any company, customer or third party infringing upon the exclusive rights of the Service Provider. In the event that the City fails to pursue appropriate legal action in order to remedy an infringement on the Service Provider's exclusive-franchise rights, the Service

Provider may retain a subrogation right from the City against any and all violations of the exclusive-franchise grant described herein and shall be entitled to any and all actual and consequential damages arising from the City's failure to enforce this Agreement.

SECTION 3. OPERATIONS.

A. **Scope of Operations.** It is expressly understood and agreed that the Service Provider will collect, haul and recycle or dispose of all Municipal Solid Waste, Construction and Demolition Waste and Recyclable Materials (as provided herein) (i) generated and accumulated by Commercial, Industrial and Residential Units, and (ii) placed within Containers by those Commercial, Industrial and Residential Units receiving the services of the Service Provider (or otherwise generated and accumulated in the manner herein provided by those Commercial Units, Industrial Units and Residential Units), all within the City's corporate limits, including any territories annexed by the City during the term of this Agreement (the "Services").

B. **Nature of Operations.** The City hereby grants to the Service Provider, in accordance with the City's ordinances and regulations governing the collection, hauling and recycling or disposal of Municipal Solid Waste, Construction and Demolition Waste and Recyclable Materials, the title to all Municipal Solid Waste, Construction and Demolition Waste and Recyclable Materials collected, hauled and recycled or disposed of by the Service Provider over, upon, along and across the City's present and future streets, alleys, bridges and public properties. All title to and liability for materials excluded from this Agreement shall remain with the generator of such materials.

SECTION 4. SINGLE-FAMILY RESIDENTIAL UNIT COLLECTIONS.

A. **Single-Family Residential Units.** The Service Provider will collect Municipal Solid Waste and Recyclable Materials from Single-Family Residential Units once per week; provided, that (i) such Municipal Solid Waste and Recyclable Materials are placed in Containers provided by the Service Provider, and (ii) such Containers are placed within five (5) feet of the curbside or right of way adjacent to the Single-Family Residential Unit no later than 7:00 a.m. on the scheduled collection day.

B. **Excess or Misplaced Municipal Solid Waste.** The Service Provider shall only be responsible for collecting, hauling and recycling or disposing of Municipal Solid Waste and Recyclable Materials placed inside the Containers provided by the Service Provider. Municipal Solid Waste and Recyclable Materials in excess of the Containers' limits, or placed outside or adjacent to the Containers, will not be collected by the Service Provider. However, such excess or misplaced Municipal Solid Waste and Recyclable Materials may be collected on occasion and within reason due to Holidays or other extraordinary circumstances as determined by the Service Provider in its sole discretion. If the excess or misplaced Municipal Solid Waste and/or Recyclable Materials continues, the City shall require the Single-Family Residential Unit to utilize an additional Container so that the excess or misplaced Municipal Solid Waste and/or Recyclable Materials will be regularly contained. The Service Provider shall be compensated for these additional Services as provided for in Section 9.A. hereto.

C. **Handicapped Residential Units.** Notwithstanding anything to the contrary contained herein, the Service Provider agrees to assist Handicapped Residential Units with houseside collection of their Containers; provided, that the Service Provider receives prior written notice from the Handicapped Residential Unit of such special need. The City shall be solely responsible for all other modifications and accommodations required by the Americans with Disabilities Act or any other applicable law or regulation in connection with the services provided hereunder to Single-Family Residential Units.

SECTION 5. COMMERCIAL, INDUSTRIAL AND MULTIFAMILY RESIDENTIAL UNIT COLLECTIONS.

A. The Service Provider will collect Municipal Solid Waste and Recyclable Materials from Commercial, Industrial and MultiFamily Residential Units one or two or three times per week, as provided for in Section 9.B. hereof. The Service Provider shall only be responsible for collecting, hauling and recycling or disposing of Municipal Solid Waste and Recyclable Materials placed inside the Containers provided by the Service Provider. However, the Service Provider shall be obligated to offer and provide sufficient service to Commercial, Industrial and Multi-Family Residential Units, and to increase or decrease, as necessary, the frequency of collection and the size or number of Containers so that Commercial, Industrial or Multi-Family Units' Municipal Solid Waste and Recyclable Materials will be regularly contained. The Service Provider shall be compensated for these additional Services as provided for in Section 9.B. hereof. The parties acknowledge and agree that the Service Provider shall not be responsible for damage to any private pavement or accompanying sub-surface of any route reasonably necessary to perform the Services herein contracted and that the Commercial, Industrial or Multi-Family Residential Unit assumes all liabilities for damage to pavement or road surface.

B. **Small Commercial Units.** The Service Provider will collect Municipal Solid Waste from Small Commercial Units once per week; provided, that (i) such Municipal Solid Waste is placed in Containers provided by the Service Provider, and (ii) such Containers are placed within five (5) feet of the curbside or right of way adjacent to the Small Commercial Unit no later than 7:00 a.m. on the scheduled collection day.

SECTION 6. SPECIAL COLLECTIONS AND SERVICES.

A. **Municipal Locations.** The Service Provider will provide, at no cost to the City, up to an aggregate number of eight (8) Roll-Outs to collect Municipal Solid Waste at certain municipal locations within the City once per week. Specifically, the provisions of this Section 6.A. shall apply to the following locations:

- City Hall – Two (2) Roll-Outs
- Public Works Office – Two (2) Roll-Outs
- Police Department – Two (2) Roll-Outs
- Civic Center – Two (2) Roll-Outs

B. Special Events. In addition, the Service Provider will provide, at no cost to the City, an aggregate number of ten (10) Roll-Outs to collect Municipal Solid Waste at the City's National Night Out Event; provided, that the City gives the Service Provider reasonable prior written notice of the date of such special event.

C. City Roll-Offs. In addition, the Service Provider will provide, at no cost to the City, two (2) 30-yard Roll-Offs, with a maximum of six (6) aggregate hauls of such Roll-Offs on an annual basis. The Roll-Offs under this Section 6.C. shall be placed at a mutually agreeable location within the City for the collection of Municipal Solid Waste by residents of the City. In the event that the City needs more than six (6) hauls of such Roll-Offs under this Section 6.C., the City shall pay the Service Provider \$120.00 per haul, plus \$45.00 per ton (with a minimum of 3 tons required).

SECTION 7. BULKY ITEMS AND BUNDLES.

A. Pre-Arranged Collections. The Service Provider will collect Bulky Items and Bundles from Single-Family Residential Units once per month, as designated by the Service Provider; provided, that (i) the Single-Family Residential Units requiring such collections notify City Hall no later than the end of the Business Day prior to the scheduled collection day, and (ii) the Bulky Items or Bundles (A) are placed at the curbside no later than 7:00 a.m. on the scheduled collection day, (B) are reasonably contained, and (C) do not exceed two (2) cubic yards in total volume or have any individual item exceeding fifty (50) pounds in weight. The Service Provider shall only be responsible for collecting, hauling and recycling or disposing of Bulky Items and Bundles from those Single-Family Residential Units that have complied with Section 1 and this Section 7.A. White Goods containing refrigerants will not be collected by the Service Provider unless such White Goods have been certified in writing by a professional technician to have had all such refrigerants removed.

B. Negotiated Collections. It is understood and agreed that the service provided under Section 7.A. does not include the collection of Bulky Items and Bundles (i) in excess of two (2) cubic yards per Single-Family Residential Unit, per collection day or (ii) comprised of Construction and Demolition Waste, White Goods or any materials resulting from remodeling, general property clean-up or clearing of property for the preparation of construction or for moving purposes. However, the Service Provider may negotiate an agreement on an individual basis with the owner or occupant of a Single-Family Residential Unit regarding the collection of such items by utilizing the Service Provider's Roll-Off Services.

SECTION 8. TITLE TO EQUIPMENT.

Notwithstanding anything to the contrary contained herein, it is expressly understood and agreed that all equipment, including, but not limited to, Containers, provided by the Service Provider in connection with the Services, shall at all times remain the property of the Service Provider.

SECTION 9. RATES AND FEES.

Subject to adjustment, as provided in Section 10 hereof, the rates and fees to be charged and received by the Service Provider are as follows:

A. Single-Family Residential Unit Services. For the Services provided to Single-Family Residential Units under Section 4.A. hereof, the Service Provider shall charge (i) \$10.25 per month for each Single-Family Residential Unit provided with one Roll-Out, plus (ii) \$5.13 per month for each additional Roll-Out provided to such Single-Family Residential Unit, plus (iii) \$4.00 per month for each Single-Family Residential Unit provided with a Recycling Container. These rates apply to all Single-Family Residential Units that are located within the City's corporate limits and billed by the City for water and sewer services.

B. Commercial, Industrial and Multi-Family Residential Unit Services. For the Services provided to Small Commercial Units under Section 5.B. hereof, the Service Provider shall charge (i) \$18.50 per month for each Small Commercial Unit provided with one Roll-Out, plus (ii) \$11.10 per month for each additional Roll-Out provided to such Small Commercial Unit.

For the Services provided to Commercial, Industrial and Multi-Family Residential Units under Section 5.A. hereof, the Service Provider shall charge per month for each Container provided and/or utilized the following rates:

<u>Container Size</u>	<u>One (1) Collection Per Week</u>	<u>Two (2) Collections Per Week</u>	<u>Three (3) Collections Per Week</u>
2 Cubic Yards	\$57.61	\$100.05	\$178.87
3 Cubic Yards	\$72.77	\$130.36	\$231.94
4 Cubic Yards	\$87.92	\$160.67	\$256.19
6 Cubic Yards	\$118.24	\$210.71	\$291.05
8 Cubic Yards	\$148.56	\$247.09	\$347.14

For any collection that the Service Provider is required to make in excess of the above weekly figures, the Service Provider shall charge the following additional amounts per Container:

<u>Container Size</u>	<u>Extra Collection Charge</u>
2 Cubic Yards	\$57.61
3 Cubic Yards	\$72.77
4 Cubic Yards	\$87.92
6 Cubic Yards	\$118.24
8 Cubic Yards	\$148.56

The foregoing rates apply to all Commercial, Industrial and Multi-Family Residential Units that are located within the City's corporate limits and billed by the City for water and sewer services.

C. **Roll-Off Services.** Subject to adjustment by the Service Provider in its sole discretion, for the Services provided under Sections 7.A. and 11 hereto, the Service Provider shall charge for each Roll-Off utilized the following fees:

Delivery/Exchange Fee	\$150.00 per Container
Rental Fee	\$3.00 per day
Haul Fee	
20 Cubic Yards	\$120.00 per haul
30 Cubic Yards	160.00 per haul
40 Cubic Yards	210.00 per haul
Disposal Fee	\$45.00 per ton (minimum of 3 tons required)

The Service Provider will negotiate agreements with each Commercial, Industrial or Residential Units on an individual basis regarding the Roll-Off Services to be provided. The Roll-Off Services will be billed directly to such Commercial, Industrial or Residential Unit and will be collected by the Service Provider. The Roll-Offs provided pursuant to this Section 9.C. must be located within the City in accordance with City ordinances and policies. Notwithstanding anything to the contrary contained herein, the Franchise Fee (as defined below) shall not apply to the services set forth in this Section 9.C.

SECTION 10. RATE ADJUSTMENT.

A. **CPI-U Adjustment.** On each anniversary date of this Agreement, the Service Provider shall have the right, in its sole discretion and upon giving prior notice to the City, to increase or decrease the rates set forth in Sections 6 & 9 hereof (the "Initial Rates") in accordance with the CPI-U. As used herein, "CPI-U" shall mean the revised Consumer Price Index rate for all urban consumers (all items included) for the nearest available metropolitan area, based on the latest available figures from the Department of Labor's Bureau of Labor Statistics (the "Bureau"). The CPI-U used will be the CPI-U published by the Bureau during the month ninety (90) days preceding the adjustment under this Section 10.A. The amount of the increase or decrease under this Section 10.A. shall be equal to the percentage that the CPI-U has increased or decreased over the previous twelve (12) month period.

B. **Operating Cost Adjustment.** In addition to the rate adjustments provided for in Section 10.A., at any time during the term of this Agreement, the Service Provider may petition the City for additional rate and price adjustments at reasonable times on the basis of material or unusual changes in its cost of operations not otherwise the basis of any other rate adjustments herein, including, but not limited to, changes in the cost of fuel, governmental fees or taxes, and changes in disposal costs. At the time of any such petition, the Service Provider shall provide the City with documents and records in reasonable form and sufficient detail to reasonably establish the necessity of any requested rate adjustment. The City shall not unreasonably withhold, condition or delay its consent to any requested rate increase. In the event the City fails or refuses to consent to any such requested rate increase and the Service Provider can demonstrate that such rate increase is necessary to offset the Service Provider's increased costs in connection with performing the services under this Agreement not otherwise offset by any

previous rate adjustments hereunder, the Service Provider may, in its sole discretion, terminate this Agreement upon ninety (90) days written notice to the City.

SECTION 11. EXCLUSIONS.

Notwithstanding anything to the contrary contained herein, this Agreement shall not cover the collection, hauling, recycling or disposal of any Hazardous Waste, animal or human, dead animals, auto parts, used tires, concrete, dirt, gravel, rock or sand from any Container provided by the Service Provider located at any Commercial, Industrial or Residential Unit; provided, however, that the Service Provider and the owner or occupant of a Commercial, Industrial or Residential Unit may negotiate an agreement on an individual basis regarding the collection, hauling or disposal of Construction and Demolition Waste, auto parts, used tires, concrete, dirt, gravel, rock or sand by utilizing the Service Provider's Roll-Off Services.

SECTION 12. TERM OF AGREEMENT.

The term of this Agreement shall be for a period of three (3) years, commencing on April 9, 2019 and concluding on April 8, 2022. At the expiration of the term of this Agreement, the Agreement will be extended for one (1) successive period of three (3) years; provided, that neither party provides the other party with written notice of its intent to terminate this Agreement at least 90 days prior to the expiration date of this Agreement . If either party provides such notice, this Agreement will cease to be renewed and will terminate at the end of this three (3) year Agreement.

SECTION 13. ASSIGNMENT.

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

SECTION 14. ENFORCEMENT.

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

SECTION 15. PROCESSING, BILLING AND FEES.

A. **Monthly Statement.** On a monthly basis, the City agrees to bill and collect the rates and fees charged under Section 9 hereto from all Commercial, Industrial and Residential Units possessing active water meters within the City's corporate limits, as well as from all other Commercial, Industrial and Residential Units requiring the collection, hauling, recycling and disposal of Municipal Solid Waste and/or Recyclable Materials within the City's corporate limits (the "Monthly Statement"). Thereafter, the City will remit to the Service Provider an amount equal to such Monthly Statement. Such remittance shall be made by the City on or before the 15th day of each month (for the immediately preceding month's service) commencing on May 15, 2019. Along with each monthly remittance, the City shall provide the Service Provider with a report indicating the service type, size, location, and rate for Commercial Units and Industrial Units, as well as the number and rate of Residential Units which have been billed for that month. Nothing herein shall prohibit the City from collecting sums in addition to those sums called for herein.

B. **Taxes.** In addition to the amounts billed and collected by the City under Section 15.A., the City shall also be solely responsible for billing, collecting, and remitting or paying any and all sales, use and service taxes assessed or payable in connection with the Services.

C. **Bad Debt; Unpaid Rates/Fees.** The City agrees that payments owing to the Service Provider pursuant to this Agreement shall be based solely on the Services rendered by the Service Provider. The Service Provider shall not be held responsible for the collection of "bad debt" billed by and owed to City for the Services, nor shall the Service Provider be penalized for Services rendered that remain unpaid by any Commercial, Industrial Unit.

D. **Billings for Roll-Off Services.** Notwithstanding the above, the Service Provider will bill and collect from all Residential, Commercial and Industrial Units for services performed with respect to Roll-Off Containers.

SECTION 16. SPILLAGE.

It is understood and agreed that the Service Provider shall not be required to clean up, collect or dispose of any loose or spilled Municipal Solid Waste, Construction and Demolition Waste, or Recyclable Materials not caused by the Service Provider's rendering of the Services, or be required to collect and dispose of any excess Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials placed outside of the Containers by any Commercial, Industrial or Residential Unit. The Service Provider may report the location of such conditions to the City so that the City can issue proper notice to the owner or occupant of the Commercial, Industrial or Residential Unit instructing the owner or occupant to properly contain such Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials. Should excess Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials continue to be placed outside of the Containers, the City shall require the Commercial, Industrial or Residential Unit to increase the frequency of collection of such Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials, or require the Commercial, Industrial or Residential Unit to utilize a Container with sufficient capacity so that the excess

Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials will be regularly contained. The Service Provider shall be compensated for these additional Services as provided for in Section 9 hereof, and shall be entitled to receive an extra collection charge for each additional Container requiring an extra collection.

SECTION 17. NONCOLLECTION NOTICE AND FOLLOWUP.

A. **Notice from the Service Provider.** It is specifically understood and agreed that where the owner or occupant of a Commercial, Industrial or Residential Unit fails to timely place a Container as directed in Sections 4 and 5 hereof, or is otherwise in violation of the City's ordinances and regulations, the Service Provider's reasonable rules adopted hereunder or the provisions of this Agreement relating to the nature, volume or weight of Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials to be removed, the Service Provider may refrain from collecting all or a portion of such Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials and will notify the City within eight (8) hours thereafter of the reason for such noncollection. The Service Provider will also provide written notice to the Commercial, Industrial or Residential Unit of the reason for such non-collection, unless such non-collection is the result of the Commercial, Industrial or Residential Unit's failure to timely place the Containers, Bulky Items or Bundles out for collection. Such written notice shall be attached to the Container or the uncollected Municipal Solid Waste, shall indicate the nature of the violation and shall indicate the correction required in order that such Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials may be collected.

B. **Notice from a Commercial, Industrial or Residential Unit.** When the City is notified by an owner or occupant of a Commercial, Industrial or Residential Unit that Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials has not been removed from such Commercial, Industrial or Residential Unit and where no notice of noncollection or a change in collection schedule has been received by the City from the Service Provider, or the Service Provider has failed to collect Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials from the Commercial, Industrial or Residential Unit without cause, as supported by notice as described herein, then the Service Provider will use all reasonable efforts to collect such Municipal Solid Waste, Construction and Demolition Waste or Recyclable Materials on the day a collection order is issued by the City; provided, however, that if the Service Provider fails to make such collection on the same day that a collection order is issued by the City, the Service Provider shall make such collection no later than 12:00 p.m. on the following Business Day, and there shall be no charge to the Service Provider for any such original noncollection or late collection so long as the Service Provider makes such collection within such time.

SECTION 18. HOURS OF SERVICE.

For all the Services provided hereunder, the Service Provider's hours of service shall be between 7:00 a.m. to 7:00 p.m., Monday through Friday. The Service Provider will not be required to provide service on weekends or Holidays except during natural disasters or emergencies, and may, at its sole discretion, observe Holidays during the term of this Agreement; provided,

however, that the Service Provider shall provide such services on the immediately following business day.

SECTION 19. CUSTOMER SERVICE.

The City agrees to field all inquiries and complaints from Commercial, Industrial and Residential Units relating to the collection, hauling, recycling and disposal of Municipal Solid Waste, Construction and Demolition Waste and Recyclable Materials. The Service Provider and the City agree to cooperate with each other in the response to any such inquiries and the resolution of any such complaints. In order to assist the City in its obligations under this Section 19, the Service Provider agrees to provide City Hall with a primary contact and toll free telephone number, as well as Service Request Forms for customer service issues such as changes in service, container repair requests and missed collections.

SECTION 20. COMPLIANCE WITH APPLICABLE LAWS.

The Service Provider shall comply with all applicable federal and state laws regarding the collection, hauling, recycling and disposal of Municipal Solid Waste, Construction and Demolition Waste and Recyclable Materials, including existing and future laws that may be enacted, as well as any regulations reasonably passed by the City that are not in derogation of this Agreement. Nothing in this Agreement shall be construed in any manner to abridge the City's right to pass or enforce necessary police and health regulations for the reasonable protection of its inhabitants. The City shall have the right to make reasonable inspections of the Service Provider in order to insure compliance with this Section 20.

SECTION 21. VEHICLES AND EQUIPMENT.

Vehicles used by the Service Provider for the collection, hauling, recycling and disposal of Municipal Solid Waste, Construction and Demolition Waste and Recyclable Materials shall be protected at all times while in transit to prevent the blowing or scattering of Municipal Solid Waste, Construction and Demolition Waste and Recyclable Materials onto the City's public streets, or properties adjacent thereto, and such vehicles shall be clearly marked with the Service Provider's name in letters and numbers not less than two (2) inches in height. All collection vehicles used by the Service Provider shall be washed and deodorized once per week.

SECTION 22. DUE CARE.

The Service Provider shall exercise due care and caution in providing the Services so that the City's public and private property, including streets and parking areas, will be protected and preserved.

SECTION 23. PERSONNEL AND PERFORMANCE STANDARDS.

The Service Provider shall not deny employment to any person on the basis of race, creed or religion, and will insure that all federal and state laws pertaining to salaries, wages and operating requirements are met or exceeded. The Service Provider, its agents, servants and employees

shall perform the Services in a courteous, competent and professional manner. During the term of this Agreement and any extension thereof, the Service Provider shall be responsible for the actions of its agents, servants and employees while such agents, servants and employees are acting within the scope of their employment or agency.

SECTION 24. INSURANCE COVERAGE.

Pursuant to this Agreement, the Service Provider shall carry the following types of insurance in an amount equal to or exceeding the limits specified below:

<u>Coverage</u>	<u>Limits of Liability</u>
(1) Worker's Compensation	Statutory
(2) Employer's Liability	\$500,000
(3) Commercial General Liability	\$1,000,000 per occurrence, \$2,000,000 in the aggregate, combined single limit for Bodily Injury and Property Damage Liability
(4) Automobile Liability	\$2,000,000 per occurrence combined single limit for Bodily Injury and Property Damage Liability
(5) Pollution Legal Liability	\$2,000,000 each loss
(6) Excess or Umbrella	\$5,000,000 per occurrence

To the extent permitted by law, any or all of the insurance coverage required by this Section 24 may be provided under a plan(s) of selfinsurance, including coverage provided by the Service Provider's parent corporation. Upon the City's request, the Service Provider shall furnish the City with a certificate of insurance verifying the insurance coverage required by this Section 24.

SECTION 25. INDEMNITY.

To the extent covered by applicable insurance, the Service Provider assumes all risks of loss or injury to property or persons caused by its performance of the Services. The Service Provider agrees to indemnify and hold harmless the City and its agents, directors, employees, officers and servants from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, liabilities, losses or expenses (including, but not limited to, reasonable attorneys' fees) to the extent caused by the negligence or willful misconduct of the Service Provider, its officers and employees. However, the Service Provider's indemnification obligations contained herein shall not apply to, and Service Provider shall not be liable for any legal proceedings, claims, demands, damages, costs, liabilities, losses or expenses (including, but not limited to,

attorneys' fees) caused by a willful or negligent act or omission of the City, its agents, directors, employees, officers and servants.

SECTION 26. PERFORMANCE SECURITY.

During the term of this Agreement and any extension thereof, the Service Provider agrees to procure and maintain a performance bond (i) payable to the City, (ii) issued by a surety reasonably acceptable to the City, and (iii) conditioned upon the Service Provider truly and timely performing all of its obligations under this Agreement, including, but not limited to, the provisions of Section 25 hereto. Such performance bond shall be in the amount of \$250,000.00.

SECTION 27. SAVINGS PROVISION.

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

SECTION 28. TERMINATION.

Any failure by either party or its successors and assigns to observe the terms and conditions of this Agreement shall, if continuing or persisting without remedy for more than thirty (30) days after the receipt of due written notice from the other party, constitute grounds for forfeiture and immediate termination of all the defaulting party's rights under this Agreement, and all such rights shall become null and void.

SECTION 29. FORCE MAJEURE.

The performance of this Agreement may be suspended and the obligations hereunder excused in the event and during the period that such performance is prevented by a cause or causes beyond reasonable control of such party. The performance of this Agreement will be suspended and the obligations hereunder excused only until the condition preventing performance is remedied. Such conditions shall include, but not be limited to, acts of God, acts of war, accident, explosion, fire, flood, riot, sabotage, acts of terrorists, unusually severe weather, lack of adequate fuel, or judicial or governmental laws or regulations.

SECTION 30. GOVERNING LAW.

This Agreement shall be governed in all respects, including as to validity, interpretation and effect, by the internal laws of the State of Texas, without giving effect to the conflict of laws rules thereof. The parties hereby irrevocably submit to the jurisdiction of the courts of the State of Texas and the Federal courts of the United States located in the State of Texas, solely in respect of the interpretation and enforcement of the provisions of this Agreement, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof, that it is not subject thereto or that such action, suit or proceeding may

not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement may be enforced in or by said courts, and the parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in such a Texas State or Federal court. The parties hereby consent to and grant any such court jurisdiction over the person of such parties and over the subject matter of any such dispute and agree that mailing of process or other papers in connection with any such action or proceeding to the addresses of the parties listed below, or in such other manner as may be permitted by law, shall be valid and sufficient service thereof.

SECTION 31. NOTICES.

Any notices required or permitted to be delivered hereunder shall be in writing and shall be deemed to be delivered when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the respective party at the address set forth below:

If to the City:

City of Venus, TX
105 E. HWY 67
Venus, TX 76084
Attn: City Manager

If to the Service Provider:

Frontier Access, LLC
P.O. Box 1283
Hillsboro, TX 76645
Attn: Vice President

or such other addresses as the parties may hereafter specify by written notice and delivered in accordance herewith.

SECTION 32. ATTORNEYS' FEES.

The prevailing party in any dispute between the parties arising out of the interpretation, application or enforcement of any provision hereof shall be entitled to recover all of its reasonable attorneys' fees and costs whether suit be filed or not, including without limitation costs and attorneys' fees related to or arising out of any trial or appellate proceedings.

SECTION 33. ACCEPTANCE.

PASSED AND APPROVED BY THE CITY OF VENUS COUNCIL MEETING AT A TIME AND PLACE IN COMPLETE CONFORMITY WITH THE OPEN MEETING LAWS OF THE STATE OF TEXAS AND ALL OTHER APPLICABLE LAWS THIS 8 DAY OF April, 2019.

FRONTIER ACCESS, LLC

CITY OF VENUS, TX

By: [Signature]
Name: Tim Henderson
Title: Vice-President

By: James Burgess
Name: James L. Burgess
Title: Mayor

ATTEST:
By: [Signature]
Name: Rol
Title: City Secretary

City of Venus Trash Rate Increase
Effective Date: April 1, 2024

CPI Current (11/2023)	298.93
CPI Former (12/2022)	288.21
CPI Variance	10.72
CPI Adjustment %	3.72%

3.72%

Current Handload

Residential Rate	\$ 16.76
Resi Extra Cart	\$ 6.03
Comm Hand Load	\$ 21.76
Comm Extra Cart	\$ 13.06

Current Dumpsters

	1x	2x	3x	4x	5x	6x	Extra
2 Yard	\$ 67.76	\$ 117.68	\$ 210.38				\$ 67.76
3 Yard	\$ 85.59	\$ 153.33	\$ 272.79				\$ 85.52
4 Yard	\$ 103.41	\$ 188.97	\$ 301.32				\$ 103.41
6 Yard	\$ 139.06	\$ 247.83	\$ 342.32				\$ 139.06
8 Yard	\$ 174.73	\$ 290.62	\$ 408.30				\$ 174.73

Current Roll-off

	Haul	Disposal	Rent	Delivery
20 yard	\$ 141.14	\$ 52.92	\$ 3.52	\$ 176.43
30 yard	\$ 188.20	\$ 52.92	\$ 3.52	\$ 176.43
40 yard	\$ 274.00	\$ 52.92	\$ 3.52	\$ 176.43
Sludge	\$ -	\$ -	\$ -	\$ -
Compactor	\$ 441.04			

Proposed Handload

Residential Rate	\$ 0.62	\$ 17.38
Resi Extra Cart	\$ 0.22	\$ 6.25
Comm Hand Load	\$ 0.81	\$ 22.57
Comm Extra Cart	\$ 0.49	\$ 13.55

Proposed Dumpsters

	1x	2x	3x	4x	5x	6x	Extra
2 Yard	\$ 70.28	\$ 122.06	\$ 218.21	\$ -	\$ -	\$ -	\$ 70.28
3 Yard	\$ 88.77	\$ 159.03	\$ 282.94	\$ -	\$ -	\$ -	\$ 88.70
4 Yard	\$ 107.26	\$ 196.00	\$ 312.53	\$ -	\$ -	\$ -	\$ 107.26
6 Yard	\$ 144.23	\$ 257.05	\$ 355.05	\$ -	\$ -	\$ -	\$ 144.23
8 Yard	\$ 181.23	\$ 301.43	\$ 423.49	\$ -	\$ -	\$ -	\$ 181.23

Proposed Roll-off

	Haul	Disposal	Rent	Delivery
20 yard	\$ 146.39	\$ 54.89	\$ 3.65	\$ 182.99
30 yard	\$ 195.20	\$ 54.89	\$ 3.65	\$ 182.99
40 yard	\$ 284.19	\$ 54.89	\$ 3.65	\$ 182.99
Sludge	\$ -	\$ -	\$ -	\$ -
Compactor	\$ 457.44	\$ -	\$ -	\$ -

Proposal accepted for 4/1/2024 effective date

Signature

Print Name

Title



P.O. Box 1283 • Hillsboro, TX 76645
1-888-854-2905 • www.frontierwaste.com

Mayor Alejandro Galaviz
City of Venus
PO Box 380
Venus, TX 76084-0380

Date: January 11, 2024

Re: Solid Waste Price Increase

Mayor Galaviz,

Per Section 10. Rate Adjustment, of the service contract between Frontier Access, LLC. and the City of Venus, I respectfully request an increase in the negotiated rates.

We are requesting an annual increase based on the difference between the CPI in December of 2022 and November 2023 (attached). The difference in the CPI is 3.72%. You can see the CPI at the following website:

- [Bureau of Labor Statistics CPI South](#)

The rate adjustment will be effective April 1, 2024. I have attached a revised rate sheet for your review.

If you have any questions or need additional information, please feel free to contact me at 254-855-6683.

Best Regards,

Sabrina Norton
Municipal Sales Manager
Frontier Waste Solutions
snorton@frontierwaste.com



City Council Agenda Item Report
Interim City Administrator James Groom
972-366-3547
jgroom@cityofvenus.org

February 12th, 2024

DISCUSS AND CONSIDER: approving a budget amendment to spend \$225,000 out of the 2018 Bond fund for water, sewer, and drainage projects.

BACKGROUND/HISTORY: The 2018 bond was taken out to complete road construction around the schools. This work was completed, and the \$428,000 remaining balance of the bond fund has not been allocated since then.

FINDINGS / CURRENT ACTIVITY: When evaluating recent major issues with our water system, the Interim Public Works Director identified several issues with the water system that need immediate attention. The immediate concerns are improving our water take point which is currently limited to a four-inch connection and adding an altitude valve at the elevated storage tank so that the water system will not overflow and allow the water take point to be operated at full blast.

While discussing these items, other issues came up that need attention. Our pumps at the main lift station are old and one is currently down. It needs to be repaired, but we are requesting not only to repair the broken one, but also to install a new pump in this lift station. The station was designed for three pumps and two are required to operate the station. All three pumps will be connected, which will allow redundancy in case one of the pumps fails. While the station is set up for three pumps, there is some wiring that will need to be done to fully connect the third pump.

There are one or more drainage issues that might be able to be taken care of as well. This is manpower dependent. These projects are in the Meadow Ridge area and the current drainage budget does not allow for fixing the identified issues.

RECOMMENDATIONS: Approve the budget amendment so that necessary work can be done in these critical areas.

ATTACHMENTS: Bond balances, Justification sheet, Existing Debt Purposes

City of Venus, Texas

Existing Bond Issues

	<u>Certificates of Obligation</u>	<u>Certificates of Obligation</u>	<u>Certificates of Obligation</u>
Debt			
Series	Series 2018	Series 2020	Series 2022
Sale date	May 14, 2018	August 10, 2020	September 12, 2022
Closing date	June 13, 2018	September 1, 2020	October 11, 2022
Call Feature	Maturities on or after February 15, 2029, in whole or in part, in principal amounts of \$5,000, or any integral multiple thereof, on February 15, 2028, or any date hereafter, at the par value thereof plus accrued interest to the date of redemption.	Maturities on or after February 15, 2031, in whole or in part, in principal amounts of \$5,000, or any integral multiple thereof, on February 15, 2030, or any date hereafter, at the par value thereof plus accrued interest to the date of redemption.	Maturities on or after February 15, 2028, in whole or in part on any date at par plus accrued interest to the date of redemption.
Par	\$4,400,000.00	\$4,175,000.00	\$8,000,000.00
<u>Premium</u>	<u>\$239,222.65</u>	<u>\$138,477.70</u>	NA
<u>Total Sources</u>	<u>\$4,725,720.65</u>	<u>\$4,313,477.70</u>	<u>\$8,000,000.00</u>
Deposit to Project Fund	\$4,500,000.00	\$4,169,000.00	\$7,924,828.81
Underwriter's Discount	\$35,519.47	\$51,208.11	NA
<u>Cost of Issuance</u>	<u>\$103,703.18</u>	<u>\$93,269.59</u>	<u>\$75,171.19</u>
<u>Total Uses</u>	<u>\$4,639,222.65</u>	<u>\$4,313,477.70</u>	<u>\$8,000,000.00</u>
Purpose	Proceeds from the sale of the Obligations will be used for (i) street improvements; ii) waterworks and sewer system improvements , including a wastewater treatment plant; (iii) improvements to existing municipal buildings; and (iv) paying legal, fiscal, architectural and engineering fees in connection with these projects, with any surplus proceeds to be used for (v) improvements at Venus Town Square.	Proceeds from the sale of the Obligations will be used for (i) constructing, constructing and improving streets, roads, sidewalks and alleys, including bridges and intersections, street overlay, landscaping, lighting, signalization, traffic safety and operational improvements, culverts and related storm drainage and utility relocation; (ii) acquiring, constructing, and equipping additions, improvements, extensions, and equipment for the City's waterworks and sewer system , (iii) acquiring, constructing, improving, renovating and equipping existing municipal buildings; (iv) acquiring, constructing, and equipping a new fire station ; and (v) paying legal, fiscal, architectural and engineering fees in connection with these projects, with any surplus proceeds to be used for (vi) improvements at Venus Town Square	Certificate in the amount of \$8,000,000 (the "Certificate") for paying all or a portion of the Issuer's contractual obligations incurred for (i) acquiring, constructing, and equipping a municipal complex, including a police station, fire station and other public safety facilities; (ii) constructing, reconstructing and improving streets, roads, sidewalks and alleys, including bridges and intersections, street overlay, landscaping, lighting, signalization, traffic safety and operational improvements , culverts and related storm drainage and utility relocation; (iii) acquiring, designing, constructing, and equipping parks and recreation facilities, including without limitation land acquisition, feasibility studies, park improvements, recreation and sports facilities, landscaping, irrigation, drainage, lighting, benches, pavilions, trails, walking paths, public restrooms, recreation centers, baseball fields, soccer fields, municipal golf course, parking facilities and related infrastructure; and (iv) paying legal, fiscal,
<u>Current</u>			
Proposed Use	1) Water and Sewer Improvements including Water take point work, main lift pump replacement and repair, altitude valve	Originally earmarked for Venus Parkway \$200,000 should be earmarked for Venus Parkway Can be used for various things	Remainder ear marked for Venus Parkway Original Intent was building a fire station Used to purchase land last year
Project Fund Balance	\$428,00	\$4,200,000	\$4,019,000

Project	Estimated Cost	
Water Take Point Improvements	\$	47,000.00
SCADA Change Orders	\$	43,000.00
Main Lift Station Replacement Pump	\$	44,000.00
Repair of Main Lift Pump & Wiring	\$	22,000.00
Altitude Valve at Elevated Tank	\$	45,000.00
Drainage Projects	\$	24,000.00
Total	\$	225,000.00
Current Remaining Balance of 2018 bonds	\$	428,000.00
Total of 2018 bond after Budget Amendment	\$	203,000.00

Notes

Increase capacity at water take point

Add SCADA to take point and electrical needed to be ran to the tower site

New Replacement Pump for Main lift station

Pump needs to be rebuilt and then new wiring to add it to the lift station

Allows take point to be full open without overfilling the elevated storage tank

Have identified an opportunity to fix an issue or two potentially



Electronic Statements



Deposit Reports	Withdrawal Report Scheduler	Transfer Report Access	Multi Transaction Statements Help / Contact Us	Vendor Payment Inquiry Update Profile	Maintenance Change Location Logout
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Electronic Statement

Location: 77847

City of Venus

Select from the account listing

Select TexPool Account:

Acct #	Account Name	Available Balance	Prior Day Balance
1260600014	2018 CO BOND PROCEEDS	428,585.39	428,585.39 ▼

Next

TexPool Participant Services
1001 Texas Avenue, Suite 1150
Houston, TX 77002



CITY OF VENUS
2018 CO BOND PROCEEDS
ATTN STACEY WYMAN
PO BOX 380
VENUS TX 76084-0380

Participant Statement

Statement Period 12/01/2023 - 12/31/2023

Customer Service 1-866-TEX-POOL
Location ID 000077847
Investor ID 000026686

TexPool Update

Based on participant feedback, effective December 1, 2023, TexPool now offers direct check purchases into TexPool and TexPool Prime. Please contact TexPool Participant Services to learn more.

TexPool Summary

Pool Name	Beginning Balance	Total Deposits	Total Withdrawals	Total Interest	Current Balance	Average Balance
Texas Local Government Investment Pool	\$426,639.74	\$0.00	\$0.00	\$1,945.65	\$428,585.39	\$426,828.03
Total Dollar Value	\$426,639.74	\$0.00	\$0.00	\$1,945.65	\$428,585.39	

Portfolio Value

Pool Name	Pool/Account	Market Value (12/01/2023)	Share Price (12/31/2023)	Shares Owned (12/31/2023)	Market Value (12/31/2023)
Texas Local Government Investment Pool	449/1260600014	\$426,639.74	\$1.00	428,585.390	\$428,585.39
Total Dollar Value		\$426,639.74			\$428,585.39

Interest Summary

Pool Name	Pool/Account	Month-to-Date Interest	Year-to-Date Interest
Texas Local Government Investment Pool	449/1260600014	\$1,945.65	\$20,891.45
Total		\$1,945.65	\$20,891.45

Transaction Detail

Texas Local Government Investment Pool

Participant: CITY OF VENUS

Pool/Account: 449/1260600014

Transaction Date	Settlement Date	Transaction Description	Transaction Dollar Amount	Share Price	Shares This Transaction	Shares Owned
12/01/2023	12/01/2023	BEGINNING BALANCE	\$426,639.74	\$1.00		426,639.740
12/29/2023	12/29/2023	MONTHLY POSTING	\$1,945.65	\$1.00	1,945.650	428,585.390
Account Value as of 12/31/2023			\$428,585.39	\$1.00		428,585.390



Electronic Statements



Deposit Reports	Withdrawal Report Scheduler	Transfer Report Access	Multi Transaction Statements Help / Contact Us	Vendor Payment Inquiry Update Profile	Maintenance Change Location Logout
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Electronic Statement

Location: 77847

City of Venus

Select from the account listing

Select TexPool Account:

Acct #	Account Name	Available Balance	Prior Day Balance
1260600015	2020 CO BOND PROCEEDS	4,218,186.15	4,218,186.15 ▼

Next

TexPool Participant Services
1001 Texas Avenue, Suite 1150
Houston, TX 77002



CITY OF VENUS
2020 CO BOND PROCEEDS
ATTN STACEY WYMAN
PO BOX 380
VENUS TX 76084-0380

Participant Statement

Statement Period 12/01/2023 - 12/31/2023

Customer Service 1-866-TEX-POOL
Location ID 000077847
Investor ID 000027508

TexPool Update

Based on participant feedback, effective December 1, 2023, TexPool now offers direct check purchases into TexPool and TexPool Prime. Please contact TexPool Participant Services to learn more.

TexPool Summary

Pool Name	Beginning Balance	Total Deposits	Total Withdrawals	Total Interest	Current Balance	Average Balance
Texas Local Government Investment Pool	\$4,199,037.05	\$0.00	\$0.00	\$19,149.10	\$4,218,186.15	\$4,200,890.19
Total Dollar Value	\$4,199,037.05	\$0.00	\$0.00	\$19,149.10	\$4,218,186.15	

Portfolio Value

Pool Name	Pool/Account	Market Value (12/01/2023)	Share Price (12/31/2023)	Shares Owned (12/31/2023)	Market Value (12/31/2023)
Texas Local Government Investment Pool	449/1260600015	\$4,199,037.05	\$1.00	4,218,186.150	\$4,218,186.15
Total Dollar Value		\$4,199,037.05			\$4,218,186.15

Interest Summary

Pool Name	Pool/Account	Month-to-Date Interest	Year-to-Date Interest
Texas Local Government Investment Pool	449/1260600015	\$19,149.10	\$205,616.41
Total		\$19,149.10	\$205,616.41

Transaction Detail

Texas Local Government Investment Pool

Participant: CITY OF VENUS

Pool/Account: 449/1260600015

Transaction Date	Settlement Date	Transaction Description	Transaction Dollar Amount	Share Price	Shares This Transaction	Shares Owned
12/01/2023	12/01/2023	BEGINNING BALANCE	\$4,199,037.05	\$1.00		4,199,037.050
12/29/2023	12/29/2023	MONTHLY POSTING	\$19,149.10	\$1.00	19,149.100	4,218,186.150
Account Value as of 12/31/2023			\$4,218,186.15	\$1.00		4,218,186.150



Electronic Statements



Deposit	Withdrawal	Transfer	Multi Transaction	Vendor Payment	Maintenance
Reports	Report Scheduler	Report Access	Statements	Inquiry	Change Location
			Help / Contact Us	Update Profile	Logout

Electronic Statement

Location: 77847

City of Venus

Select from the account listing

Select TexPool Account:

Acct #	Account Name	Available Balance	Prior Day Balance
1260600016	2022 CO BOND FUND	4,019,251.54	4,019,251.54 ▼

Next

TexPool Participant Services
1001 Texas Avenue, Suite 1150
Houston, TX 77002



CITY OF VENUS
2022 CO BOND FUND
ATTN STACEY WYMAN
PO BOX 380
VENUS TX 76084-0380

Participant Statement

Statement Period 12/01/2023 - 12/31/2023

Customer Service 1-866-TEX-POOL
Location ID 000077847
Investor ID 000029793

TexPool Update

Based on participant feedback, effective December 1, 2023, TexPool now offers direct check purchases into TexPool and TexPool Prime. Please contact TexPool Participant Services to learn more.

TexPool Summary

Pool Name	Beginning Balance	Total Deposits	Total Withdrawals	Total Interest	Current Balance	Average Balance
Texas Local Government Investment Pool	\$4,001,005.49	\$0.00	\$0.00	\$18,246.05	\$4,019,251.54	\$4,002,771.24
Total Dollar Value	\$4,001,005.49	\$0.00	\$0.00	\$18,246.05	\$4,019,251.54	

Portfolio Value

Pool Name	Pool/Account	Market Value (12/01/2023)	Share Price (12/31/2023)	Shares Owned (12/31/2023)	Market Value (12/31/2023)
Texas Local Government Investment Pool	449/1260600016	\$4,001,005.49	\$1.00	4,019,251.540	\$4,019,251.54
Total Dollar Value		\$4,001,005.49			\$4,019,251.54

Interest Summary

Pool Name	Pool/Account	Month-to-Date Interest	Year-to-Date Interest
Texas Local Government Investment Pool	449/1260600016	\$18,246.05	\$337,521.65
Total		\$18,246.05	\$337,521.65

Transaction Detail

Texas Local Government Investment Pool

Participant: CITY OF VENUS

Pool/Account: 449/1260600016

Transaction Date	Settlement Date	Transaction Description	Transaction Dollar Amount	Share Price	Shares This Transaction	Shares Owned
12/01/2023	12/01/2023	BEGINNING BALANCE	\$4,001,005.49	\$1.00		4,001,005.490
12/29/2023	12/29/2023	MONTHLY POSTING	\$18,246.05	\$1.00	18,246.050	4,019,251.540
Account Value as of 12/31/2023			\$4,019,251.54	\$1.00		4,019,251.540



City Council Agenda Item Report
Interim City Administrator James Groom
972-366-3547
jgroom@cityofvenus.org

February 12th, 2024

DISCUSS AND CONSIDER: Approving City Representatives to be placed on the Region's Bank Trust for the purpose of authorizing PID distributions.

BACKGROUND/HISTORY: The current authorized City Representatives are from January 2023, and are no longer with the City.

FINDINGS / CURRENT ACTIVITY: Our PID Administrator, Mitch Moseman, contacted City Staff requesting that we authorize a disbursement for Patriot Estates from the PID fund. Upon research, we discovered that no one in the city is currently an Authorized Representative. The required form was provided to us, and we were requested to have the council authorize one or more representatives.

Due to current staffing, the Mayor and City Secretary would be the best choices for this duty as we do not have an in-house finance director or a permanent City Administrator.

RECOMMENDATIONS: Authorize the Interim City Administrator to sign the Region's Trust form naming the Mayor and the City Secretary as the City Representatives so they can authorize PID disbursements.

ATTACHMENTS: Region's Trust Form



**Incumbency Certificate and
Call Back Designee(s) for Disbursements and Payment of Requisitions**

Account Name:

Account Number(s):

I am _____ of _____ (the “_____”). In that capacity, I certify that the persons listed below have been duly appointed and qualified as, and currently are, officer of the _____. I also certify that each person holds the office listed opposite the person’s name, and that the signatures below are the genuine signatures of the persons indicated. I also certify that the persons employed by the _____ and listed below are authorized to give Regions Bank (the “_____”) on behalf of the _____ all notices, order, directions, or instructions (including but not limited to written, electronic, or facsimile funds transfer instructions) in connection with any transactions with respect to the above referenced account.

Printed Name

Title

Signature

With respect to the account(s) identified above, I hereby authorize Regions Bank to contact the following designee(s) to verify the authenticity of disbursement requests and requisitions approved and submitted for payment by the referenced accounts.

Contact Name

Phone number

Contact Name

Phone number

Contact Name

Phone number

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this certificate as of the _____ day of _____ 2024.

By: _____
Name
Title