



## Memo from the Town Secretary

**To:** Town Council October 17,2023 Meeting

**From:** Theresa Scholander

**CC:** Citizens

- Town of Poetry offices have moved!

The Town's permanent office is open Thursdays 1pm-5pm and located at 5671 CR 323.

- Town of Poetry will immediately begin the audit process.

Engagement letter 2023 was reviewed with the council, signed and approved employing Kyle Caperton, CPA., Murrey, Paschall & Caperton, P.C.

Audit activities include but are not limited to the audit of financial statements of the governmental activities and each major fund, of the Town of Poetry as of and for the year ended September 30,2023.

- Community-wide Fall cleaning day is scheduled Saturday, November 11, 2023 (pending council approval).

Let all pull together to Keep Poetry Beautiful!



**Town of  
Poetry**

**Sept 31 2023**

**Beginning Bank Balance 09/31/2023** \$51,213.58

<b>Deposits</b>	Return Costco	Motion Light	Parking Lot	\$19.99
	Texas Comptroller	Sales and Use Tax		\$9,172.77
	Oncor Franchise Fee	Franchise Fee		\$4,489.20
	FEC Franchise Fee	Franchise Fee		<u>\$10,651.22</u>
		Total		<u>\$24,333.18</u>

**Withdrawals and debits**

9/5 Smart Sign	Road Signage		\$203.05
9/5 Go Daddy	Domain		\$23.17
9/5 Office Max	Office Supplies Misc		\$136.05
9/5 The Home Depot	Town Repairs Misc		\$49.86
9/5 The Home Depot	Janitorial Supplies		\$59.91
9/6 Costco	Folding Chairs & Office Supplies		\$257.37
9/12 Brookshires	Janitorial Supplies		\$14.99
9/14 Amazon	Audio Hardware & Wiring		\$118.26
9/18 Wix	Website		\$19.48
9/18 Terrell Tribune	Budget Hearing Notice/Publication		\$104.50
9/19 Walmart	Office Supplies		\$158.27
9/20 Costco	Janitorial Supplies		\$118.97
9/20 Costco	Town Chairs/ Trash Bags/Janitorial		\$469.79
9/25 Walmart	Office Supplies Misc		\$76.88
9/25 Amazon	Office Supplies First Aid Kit		\$44.98
9/25 Amazon	Office Supplies Ink Pads		\$20.92
9/27 Amazon	Office Supplies wall files		\$26.00
9/27 Batteries Plus	Flag Pole Repair		\$17.31
9/27 The Home Depot	Repairs		\$111.60
9/27 Amazon	Office Supplies Chair Mat x 2		\$59.38
9/27 Big Lots	Office Supplies Misc		\$31.17
9/29 Amazon	Indoor/Outdoor speakers Town Hall Mtgs		\$49.99
9/29 Amazon	Duplex Laser Printer		\$449.00
9/29 Amazon	PC Dell Optiplex		\$475.00
9/29 Amazon	AV Shelf for Town Hall Meetings		<u>\$104.99</u>
	Total		<u>\$3,200.89</u>

**Checks Paid**

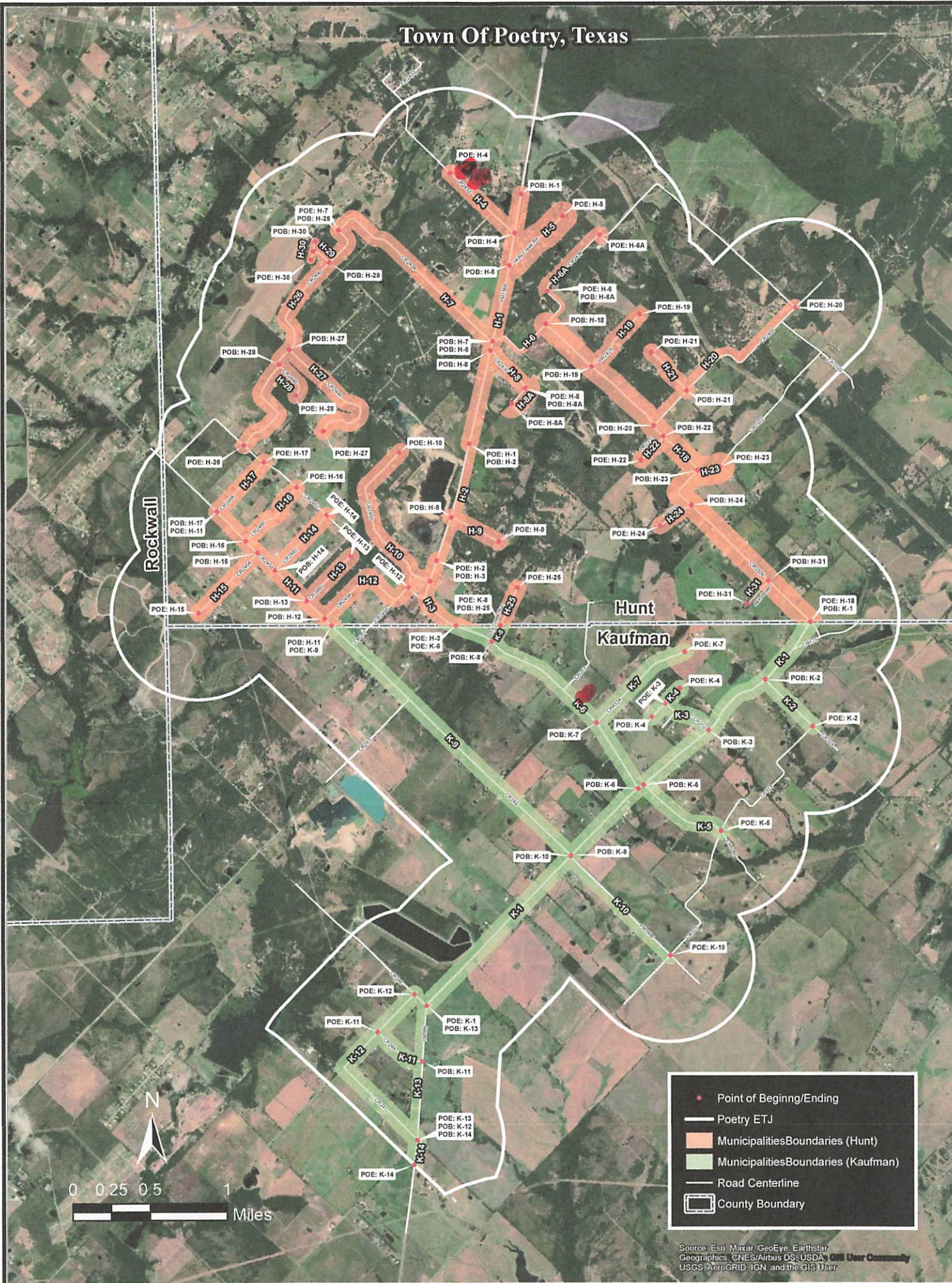
9/6 Vicars Septic	Septic	KCTest	\$100.00
9/8 Stripes By Mike	Parking Lot Striping		\$350.00
9/11 Theresa Scholander	Aug 2023		\$470.99
9/11 PWSC	Water		\$126.63
9/12 Reliant	Electric		\$73.80
9/13 Hunt County	Voting Equip. License & Support Fee		\$500.00
9/14 Print Tyme	Newsletter		\$49.99
9/18 Charter Communications	Town Hall Phones		\$100.29
9/25 Poetry Tack and Ag	Reimb Town Hall Expenses		\$94.33
9/29 Dorothy Dillon	Editing Map To Include Bass Property		<u>\$50.00</u>
	Total		<u>\$1,916.03</u>

**Ending Balance 02/28/2023** \$70,429.84

**11 FEC checks outstanding** \$ 591.47



# Town Of Poetry, Texas



- Point of Beginning/Ending
- Poetry ETJ
- Municipalities Boundaries (Hunt)
- Municipalities Boundaries (Kaufman)
- Road Centerline
- ▭ County Boundary

Source: Esri, Maxar, GeoEye, Earthstar, Geographics, CNES/Airbus DS, USDA, CNR, User Community, USGS, AeroGRID, IGN, and the GIS User







**Solid Waste Revenues                      CRS**

Q4	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Rolloffs (\$25.00)	
	November 2021	163	7	0	\$1,164.50
	December 2021	\$171.00	7	\$0.00	\$1,216.50
Pmt Recvd 1/10/2022					
Q1	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
	Jan, Feb, March 2022	\$3445.00 + (\$52.00)	\$315.00		\$3,708.00
	Back up provided did not breakdown monthly				
Recvd 7/12/2022					
Q2	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
	Apr, May, June 2022	169 @ \$19.50=\$3295.50	7 @ \$45.00=\$315.00	12 @ \$6.50 = \$78.00 2 @ \$13.00 = \$26.00	\$3,714.50
	Back up provided did not breakdown monthly				
Recvd 08/23/2022					
Due 7/10/2022					
Q3	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
	July, Aug, Sept 2022	181 \$ 19.50	7 \$ 45.00	1 \$ 6.50 20 \$ 13.00	\$ 4,111.00 \$100.00
	7/5/2022 waste hauler registration (CARD)				
Due 10/10/2022					
Q1 2023	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
	Contract Received _____				
	Oct, Nov & Dec 2022				\$ 4,247.50
	No copy of check in file				
Due 1/1/2023					
Q2 2023	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
	Jan, Feb & Mar 2023	202	7	1	\$4,260.50
Due 4/10/2023					
Q1 2023	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
	Apr, May & June 2023	7/17/2023      183@ \$13	8 @ \$30	20 \$ 130.00	\$2,749.00
Due 7/10/2023					
Q1 2023	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
	July, Aug & Sep				
Due 10/10/2023					
<b>Total</b>					<b>\$25,271.50</b>

No copy of payment in file



**Solid Waste Revenues**

**CARD R,**

Q1 2021	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$15.00)	Revenue
Nov Dec					
Q2 2022	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
Jan, Feb, March 2022					
Q3 2022	Month	15 Gal (\$25.00)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
Apr, May June					\$ 548.00
	8 - 96 additional can 40 - 96G      2 - 2 yard 32 - TS      1 - 4yard				
Q4 2022	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
July, Aug, Sept 2022 Past Due payment received 11/22/2022 Due 10/10/2022	No copy of payment in file				1462.50
Q1 2022	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
Contract Received 6/27/2022 Oct, Nov & Dec 2022 Past Due Payment dep feb bank rec-dated 1/30/2023 Payment Due 1/10/2023					1384.5
Q2 2023	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
Jan, Feb & Mar 2023 Payment Due 4/10/2023	6/1/2023				1423.5
Q3 2023	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
Apr, May & June 2023 Payment Due 7/10/2023	7/13/20/23				3297.5
Q4 2023	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
July, Aug, & Sep 2023 Payment Due 10/10/2023					
<b>Total</b>					<b>\$8,116.00</b>

No copy of payment in file

Nichols, Jackson, Dillard, Hager & Smith L.L.P.  
 500 N Akard St.  
 Suite 1800  
 Dallas, TX 75201 USA  
 214-965-9900      Tax ID: 75-0861592

TOWN OF POETRY  
 TX USA

Date:                    09/30/2023  
 Ref.:                    3089.000  
 Bill #:                   47387

RE:    General Legal Services

Attention:      Mayor Tara Senkevech

Date	Init	Description of Service	Hours	Amount
09/06/2023	DMB	Review and comparison of petition for ETJ release, email to mayor.	0.25	48.75
09/07/2023	DMB	Email opinion to mayor re petition to release ETJ; email to mayor re nuisance ordinance.	0.50	97.50
09/15/2023	DMB	Preparation of demand letter template, emails to mayor and town secretary re ETJ release petitions.	0.50	97.50
09/21/2023	DMB	Telephone call with mayor, attendance at council meeting.	5.75	1,121.25
09/27/2023	DMB	Email to councilmember (TF) re ETJ petitions.	0.50	97.50
		Our Fee	7.50	1,462.50

**Time Summary**

Lawyer Initials	Rate	Hrs	Amount
DMB	195.00	7.50	1,462.50

**Disbursements**

Mileage - David M. Berman	24.89
<b>Total Disbursements</b>	<b>24.89</b>
<b>Total Fees and Disbursements</b>	<b>1,487.39</b>
<b>TOTAL</b>	<b>1,487.39</b>
<b>Net Amount Owing on This Bill</b>	<b>1,487.39</b>

**Statement of Account**

Prior Balance	853.64
Current Fees	1,462.50
Current Disbursements	\$24.89
<b>Amount Due and Owing to Date</b>	<b>\$2,341.03</b>



Nichols, Jackson, Dillard, Hager & Smith L.L.P.  
Attorneys & Counselors at Law  
500 N Akard St.  
Suite 1800  
Dallas, TX 75201 USA  
214-965-9900  
Fax (214) 965-0010  
E-mail NJDHS@NJDHS.com

Sep 30, 2023

Client: 3089

TOWN OF POETRY  
TX USA

MATTER STATUS

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	Prior Balance	Payments Adjustments	Current Charges	Total
3089.000 General Legal Services	853.64	-0.00	1,487.39	2,341.03
<b>Total</b>	<b>853.64</b>	<b>-0.00</b>	<b>1,487.39</b>	<b>2,341.03</b>

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Solid Waste Revenues      AWT Sanitation

Q4	Month	Polycarts (\$6.50)	Dumpsters (\$15.00)	Roll Offs (\$25.00)	Revenue
	Beginning Month 11/01/21	88	0	0	\$572.00
	December 2021	89	0	0	\$578.50
<b>1/10/2022 Deadline</b>					
Pmt Rcvd 01/10/22 \$1,150.50					
Q1	Month	Polycarts (\$6.50)	Dumpsters (\$15.00)	Roll Offs (\$25.00)	Revenue
Back up provided did not breakdown monthly					\$1,956.50
Pmt rcvd 07/12/2022 dated 7/25/2022 \$1956.50					
<b>4/10/22 Deadline</b>					
Q2	Month	Polycarts (\$6.50)	Dumpsters (\$15.00)	Roll Offs (\$25.00)	Revenue
	Apr 2022				
	May 2022				
	June 2022				
Back up provided did not breakdown monthly					
		1 Rolloff \$25.00	1 for 2 months \$13.00	16 for 1 Month \$104.00	
Pmt rcvd 08/23/22 \$2189.50					
<b>7/10/22 Deadline</b>					
		105 for 3 months \$2047.50			\$2,189.50
Q3	Month	Polycarts (\$6.50)	Dumpsters (\$15.00)	Roll Offs (\$25.00)	Revenue
	126 @ 3 Mo.	\$ 2,457.00			
	July, Aug & Sep 2022	2 @ 2 Mo.	\$ 52.00		
		1 @ 1 Mo.	\$ 6.50		
Dep was actually 2515.50					\$2,515.50
GI shows 2515.00					
<b>Due 10/10/2022</b>					
Q4	Month	Polycarts (\$6.50)	Dumpsters (\$15.00)	Roll Offs (\$25.00)	Revenue
<b>Due 01/10/2023</b>					
	recvd 01/18/2023				\$2,470.00
Q1 2023	Month	Polycarts (\$6.50)	Dumpsters (\$15.00)	Roll Offs (\$25.00)	Revenue
<b>Contract Received</b>					
recvd 04/13/2023					\$2,470.00
<b>Due 1/10/2023</b>					
Q2 2023	Month	Polycarts (\$6.50)	Dumpsters (\$15.00)	Roll Offs (\$25.00)	Revenue
	Jan, Feb & Mar 2023			recvd 08/10/2023	\$2,535.00
<b>Due 4/10/2023</b>					
Q3 2023	Month	Polycarts (\$6.50)	Dumpsters (\$15.00)	Roll Offs (\$25.00)	Revenue
Apr, May & June 2023					
<b>Due 7/10/2023</b>					
Q4 2023	Month	Polycarts (\$6.50)	Dumpsters (\$15.00)	Roll Offs (\$25.00)	Revenue
July, Aug & Sept 2023					
<b>Due 10/10/2023</b>					

Good afternoon,

Thank you so much for reaching out regarding pricing for the Town of Poetry- City Hall facility. Please see below.

Texas Contractor Roll Offs is pleased to provide the following quotes.

#### Quote Number 1- Rock for Parking

\*To provide, haul and spread crushed concrete/ road base to the area outside the fence at Poetry City Hall ( see attached pic for reference) Enough to cover an area 18' long by 100' wide and approx 3" thick.

Total price of \$1,100.00 ( One thousand, one hundred dollars)

\*prep work for parking area, fabric, tree removal or any dirt work is not included.

#### Quote Number 2- Soil for City Hall

\*To provide, haul and dump approx 10 cubic yards of "Landscapers Mix" from Living Earth- Rockwall ( \$50 per yard cost) to the Town Of Poetry- City Hall. Spreading of dirt not included in price. No prep work is included.

Total Price of \$800.00 ( eight hundred dollars )

Spreading of 10 cubic yards of dirt can be added for \$100.00 ( one hundred dollars)

Should you have any questions or wish to modify the scope of work please do not hesitate to reach out. It would be my honor to help and serve the town of Poetry.

Kind Regards,

Kevin Potts

Owner / Operator

469-550-4630

[kpotts@texascontractorrolloffs.com](mailto:kpotts@texascontractorrolloffs.com)







**Foam Construction, Inc.**  
*Delivering Environments for the Future*



Products Made in the U.S.A.

## PROPOSAL

Date: 10/13/23

Number: 23100C

Submitted To: Mayor Tara Senkevich  
214-317-8128  
[mayor.tara@poetrytexas.org](mailto:mayor.tara@poetrytexas.org)

Job Site: Town Hall  
5671 CR 323  
Poetry, Texas

We hereby propose to furnish the materials and labor necessary for the completion of:

1000 sq ft Crawlspace

Stage, prep and apply 5.5"-6" (R20-R22) Open Cell Polyurethane Spray Foam to underside conditioned floor at Crawlspace.

Contract Price: \$2850.00 (will need tax exempt certificate)

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All material and labor guaranteed in accordance with selected items within this proposal and are due upon completion or TBD. Insurance certificate (GL, WC, Auto, Umbrella, Bond) will be made available upon proposal acceptance.

Respectfully submitted by Delta-E Foam Construction, Inc. by \_\_Chuck – 972-743-0444 cell\_\_



**Solid Waste Revenues**

**Titan**

Q4	Month	Roll Offs	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
Pmt Recvd 1/10/2022	Nov	0	3	51	\$376.50
	Dec	1	4	49	\$403.50
Q1	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
Jan, Feb, March 2022 Recvd 4/8/2022					\$1,219.50
Q2	Month	15 Gal (\$25.00)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
Apr, May, June April 2022	Back up shows April and May ?? Only one customer in June			-13	\$1,254.00 -\$13.00
check dated 7/6/2022 Due 7/10/2022					
Q3	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
July, Aug, Sept 2022	10/17/2022 Rcvd	55	6		\$1,329.50
Due 10/10/2022					
Q1 2023	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
Contract Received _____					
Oct, Nov & Dec 2022 Due 1/10/2023	Received 01/18/2023 Annual Renewal 10/26/22 per GL	55	6		\$1,336.50 \$100.00
Q1 2023	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
Jan, Feb & Mar 2023 Due 4/10/2023	Received 4/13/2023	58	5		\$1,356.00
Q1 2023	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
Apr, May & June 2023 Due 7/10/2023	7/17/2023				\$1,317.00
Q1 2023	Month	Toter (\$19.50)	Dumpsters (\$45.00)	Polycarts (\$6.50)	Revenue
July, Aug & Sep 2023 Due 10/10/2023	10/12/2023				\$1,330.00
<b>Total</b>					<b>\$10,009.50</b>

No Copy of Pmt in File



**PROPOSAL**

Simmons Beauty Roofs  
21840 State Highway 64  
Canton, TX 75103-2184  
(972) 989-0033

**Sales Representative**  
John Simmons  
(972) 989-0033  
John@BeautyRoofs.com



**Tara Senkevich**  
**Poetry, TX 75160**

<b>Estimate #</b>	3122
<b>Date</b>	3/31/2023

Item	Description	Qty
Tear Off	Remove one layer of your existing composition roofing shingles.	15.00
Shingles - Starter Strip	Install new starter strip on eaves and rakes. These shingles are used to complete the warranty requirements of the shingle manufacturer.	80.00
Underlayment - Synthetic	Install new synthetic underlayment.	15.00
Flashing - Drip Edge	Install new drip edge on the eave of the home.	50.00
Shingles - Lifetime Laminated	Install new lifetime manufacturer warrantied laminated composition shingles.	16.00
Shingles - Standard Ridge	Install cut 3-tab shingles on all hips and ridges.	1.33
Warranty	We guarantee all materials and labor above to be as specified. We also promise for the work to be accomplished in a neat workmanlike manner. We will cover any issues that may arise due to workmanship error for a period of three years. Your shingle warranty and/or insurance related claims supersede this warranty.	1.00
Additional Materials Needed	Additional materials needed to complete your project.	1.00

<b>Sub Total</b>	\$4,736.45
<b>Total</b>	\$4,736.45

**NOTES**

This proposal for all materials and labor is for the entire roof area, including the addition.

You may also just roof over the existing roof. The total labor and material cost will only be \$3,400.00, instead of the \$4,736.45 listed, if you do decide to remove over the existing roof. This is our recommendation if your budget is tight.

Under Texas Law HB2102, we are required to post the following with any written proposal:

Texas law requires a person insured under a property insurance policy to pay any deductible applicable to a claim made under the policy. It is a violation of Texas law for a seller of goods or services who reasonably expects to be paid wholly or partly from the proceeds of a property insurance claim to knowingly allow the insured person to fail to pay, or assist the insured person's failure to pay, the applicable insurance deductible.



PETITION FOR RELEASE OF AREA BY LANDOWNER OR RESIDENT  
FROM EXTRATERRITORIAL JURISDICTION

TO THE TOWN OF POETRY, TEXAS:

Pursuant to Chapter 42, Local Government Code as amended and effective September 1, 2023, Petitioners Patrick J. Smith and Shelley J. Smith, hereby file this Petition for Release of Area within the municipality's extraterritorial jurisdiction ("ETJ") and in support thereof would respectfully show as follows:

FACTUAL BACKGROUND

Petitioners aver that they: (a) are all of the residents of the area described by the Petition in the Town of Poetry's extraterritorial jurisdiction; (b) are the owners of the majority in value of such area consisting of one or more parcels, tracts, or lots of land in the Town of Poetry's extraterritorial jurisdiction; and (c) constitute the majority in value of the holders of title to such land to be released.

ARGUMENT AND AUTHORITY

1. As set forth above, Petitioners are all of the residents of the area described by the Petition in the municipality's extraterritorial jurisdiction. See Tex. Loc. Gov. Code Sec. 42.102(a).
2. In addition, Petitioners are the owners of the majority in value of such area consisting of one or more parcels, tracts or lots of land in the municipality's extraterritorial jurisdiction. See Tex. Loc. Gov. Code Sec. 42.102(b),
3. Likewise, Petitioners constitute the majority in value of the holders of title of land in the area described by the Petition, as indicated by the tax rolls of the Kaufman Central Appraisal District ("KCAD"), in accordance with Tex. Loc. Gov. Code Sec. 42.104(a)(2).



4. As set forth below, Petitioners have satisfied the signature requirement described by Tex. Loc. Gov. Code Sec. 42.104(a) by submitting all of the required signatures not later than the 180<sup>th</sup> day after the date the first signature for the petition was obtained and such signatures are in writing, as required by Tex. Loc. Gov. Code Secs. 42.104(c) and (d).
5. The petition includes a map of the land to be released and describes the boundaries of the land to be released by metes and bounds or lot and block numbers. See Tex. Loc. Gov. Code Sec. 42.104(d)(1) and (2). See also Exhs. "A" through "E" attached hereto.
6. The "area described by the petition" and "land to be released" as set forth herein is any part of the following property included within the Town of Poetry's ETJ: (1) KCAD Property ID: 56090; Legal Acreage: 6.21; GEO ID: 99.0529.0000.0600.05.06.00; Legal Description: ELISHA TURNER, TRACT 600.05; 6.21 ACRES; Tract or Lot: 600.05; Abstract Subdivision Code: A0529; Neighborhood Code: 28-001 and as more specifically described on Exhibits "A-1" and "A-2" attached hereto and which are incorporated herein by reference; (2) KCAD Property ID: 14516; Legal Acreage: 1.39; GEO ID: 99.0529.0000.0600.03.06.00; Legal Description: ELISHA TURNER, TRACT 600.03; 1.39 ACRES; Tract or Lot: 600.03; Abstract Subdivision Code: A0529; Neighborhood Code: 28-001 and as more specifically described on Exhibits "B-1" and "B-2" attached hereto and which are incorporated herein by reference; (3) KCAD Property ID: 188047; Legal Acreage: 6.34; GEO ID: 99.0529.0000.0600.06.06.00; Legal Description: ELISHA TURNER, TRACT 600.06; 6.338 ACRES; Tract or Lot: 600.06; Abstract Subdivision Code: A0529; Neighborhood Code: 28-001 and as more specifically described on Exhibits "C-1" and "C-2" attached hereto and which are incorporated herein by reference; and (4): KCAD Property ID: 14515; Legal Acreage: 1.77; GEO ID: 99.0529.0000.0600.02.06.00; Legal Description: ELISHA TURNER, TRACT 600.02; 1.77 ACRES, & HOJSE; Tract or Lot: 600.02; Abstract Subdivision Code: A0529; Neighborhood Code: 28-RFGD/AV and as more specifically described on Exhibits "D-1" and "D-2" attached hereto and which are incorporated herein by reference. See also the KCAD map of the area described by the petition attached hereto as Exh. "E" and incorporated herein by reference. See also the official recorded map of the Town of Poetry



maintained by said municipality as required by law and which is incorporated herein by reference.

7. Pursuant to Tex. Loc. Gov. Code Sec. 42.105(a) Petitioners request this petition requesting removal shall be verified by the municipal secretary or other person responsible for verifying signatures.
8. Pursuant to Tex. Loc. Gov. Code Sec. 42.105(b), Petitioners request the municipality to notify the residents and landowners of the results of the petition.
9. Pursuant to Tex. Loc. Gov. Code Sec. 42.105(c), since the Petitioners have obtained the required number of signatures under Section 42.104, the aforementioned municipality shall immediately release the area from the municipality's extraterritorial jurisdiction.

Respectfully submitted,

Patrick J. Smith Signature Patrick J. Smith Date: Sept. 3, 2023

Shelley J. Smith Signature Shelley J. Smith Date: Sept 3 2023

18730 FM 1565

Poetry, Texas 75160



is intended by the Legislature to be applied to the entire  
of the State.

It is the intent of the Legislature to provide that the  
of the State shall be subject to the provisions of the  
of the State.

It is the intent of the Legislature to provide that the  
of the State shall be subject to the provisions of the  
of the State.

It is the intent of the Legislature to provide that the  
of the State shall be subject to the provisions of the  
of the State.

Enacted at Austin, Texas, this 1st day of January, 1901.

George W. Johnson, Governor.

John W. Johnson, Lieutenant Governor.

1901

George W. Johnson, Governor.



CERTIFICATE OF SERVICE

This is to certify that on the 3<sup>rd</sup> day of September, 2023, a true and correct copy of the above and foregoing instrument was this date sent to the Town of Poetry, Texas via email to [secretary@poetrytexas.org](mailto:secretary@poetrytexas.org) and [contact@poetrytexas.org](mailto:contact@poetrytexas.org).



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PATRICK J. SMITH



10. Pursuant to Tex. Loc. Gov. Code Sec. 42.105(c), since the Petitioners have obtained the required number of signatures under Section 42.104, the aforementioned municipality shall immediately release the area from the municipality's extraterritorial jurisdiction.

Respectfully submitted,

Kenneth M and Tracie Hibbs, September 11, 2023

Petitioner(s) Name: 

Kenneth M Hibbs

Date: September 11, 2022

Tracie Hibbs 

Date: September 11, 2022

Petitioner(s) home address 9441 CR 2432, Terrell, Texas 75160



Phone number 

And email 

### CERTIFICATE OF SERVICE

This is to certify that on the 11 day of September, 2023, a true and correct copy of the above and foregoing instrument was this date sent to the Town of Poetry, Texas via email to [secretary@poetrytexas.org](mailto:secretary@poetrytexas.org) and [contact@poetrytexas.org](mailto:contact@poetrytexas.org).

Kenneth M and Tracie Hibbs,

   
Petitioner(s)

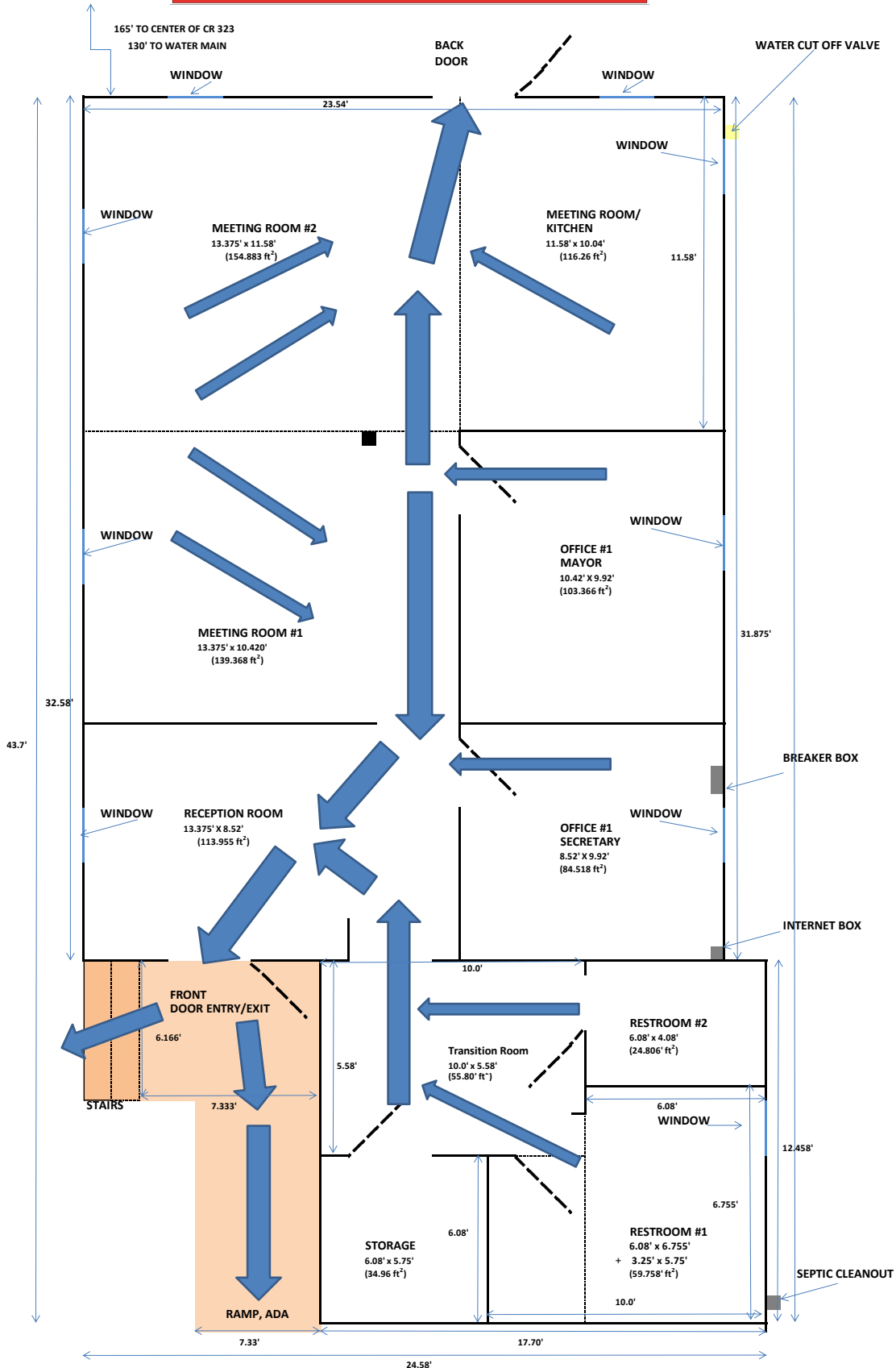




The Town of Poetry, TX  
Town Hall  
5671 County Road 323  
Poetry, TX 75160  
Contact@PoetryTexas.org



### FIRE EVACUATION PLAN



Total Square Feet: 987

**RESOLUTION NO. 2021-10-01R**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF POETRY, TEXAS ADOPTING A TOWN COUNCIL DECORUM AND PROCEDURES POLICY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council of the Town of Poetry, Texas (“Town Council”) desires to adopt rules of decorum and procedures for the conduct of meetings of the Town Council; and

**WHEREAS**, the Town Council desires to adopt such rules of decorum and procedures that are consistent with the laws of the State of Texas and articulate rights, obligations and standards to be upheld by councilpersons and members of the public appearing before the Town Council at a public meeting and establish clear procedures for having items considered for being placed on the agenda of an upcoming Town Council meeting.

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

**Section 1. Adoption.** That the Town Council of the Town of Poetry, hereby adopts and approves the Town Council Decorum and Procedures Policy as herein after set forth:

**TOWN OF POETRY, TEXAS  
TOWN COUNCIL DECORUM AND PROCEDURES POLICY**

These Rules of Decorum and Procedures of the Town Council of the Town of Poetry, Texas shall be effective immediately and shall remain in effect until such time as they are subsequently amended, suspended or new rules are adopted:

The purposes of the Rules of Decorum and Procedure are : (i) to ensure that the Town Council meetings are conducted in a way that allow the business of the Town to be effectively administered; (ii) to ensure that the members of the public who attend Town Council meetings can be heard in a fair, impartial and respectful manner; (iii) to ensure that Town Council meetings are conducted in a way that is open to all viewpoints, yet free from abusive, distracting or intimidating behavior; and (iv) to ensure that the rules governing decorum at Town Council meetings are understood by persons attending the meetings.

**TOWN COUNCIL MEETINGS**

The deliberations and proceedings of the Town Council shall be open to the public, except as state law provides otherwise - (e.g., executive sessions) and shall comply with the Texas Government Code’s Open Meetings Act, as amended (“the “Act”).



## **Regular Meetings**

Regular meetings of the Town Council will be held on the third (3rd) ~~Tuesday~~ Thursday of each month beginning at 6:30 PM at the Poetry Town Hall located at 5671 CR 323 in Poetry, TX 75160 or at Faith Temple Church located at 11214 FM 1565, Poetry, Texas, or at any place that the Town Council may direct. The date and/or time of any regularly scheduled meeting may be adjusted, if necessary, so long as proper public notification is provided.

## **Special Meetings**

Special meetings shall be set at such times as are necessary or appropriate and may be called by the Mayor or via a memorandum requesting a special meeting signed by any ~~three (3)~~ two (2) members of the Town Council and submitted to the Town Secretary. Upon receipt of a request for special Town Council meeting by the Town Secretary, the Town Secretary shall ~~determine the availability of the Town Council chambers, the other Town Council members and Mayor for a special meeting and shall~~ call such meeting at the earliest available opportunity at which such participants and facilities are available. Notice of a special meeting shall be given to each member of the Town Council at least 72 hours in advance of the meeting or one (1) hour in advance in case of an emergency meeting. Notice may be given unilaterally in writing, in person, by telephone or by electronic communication.

## **Executive Session**

An executive session (a meeting closed to the public) may be held in accordance with the Act. The Mayor or presiding officer may call any regular, special, or emergency meeting into executive session by citing the specific provision of Texas Government Code Chapter 551 ~~Section 551.101, et seq.~~

## **Work Session**

Work session meetings are informal ~~special~~ meetings to review upcoming issues, receive special reports, conduct goal setting sessions and for special training purposes.

## **TOWN COUNCIL AGENDA**

The Town Council Agenda is the official order of business at Town Council meetings. Items on the Agenda are prepared and submitted to the Town Council by members of the Town Council and staff.

The Agenda lists the items coming before the Town Council for consideration. An Agenda Memo for each item gives background and analysis, as well as staff recommendations, on the specific agenda item.

Prior to the public posting of Town Council Agendas, a proposed agenda shall be submitted to the Mayor (or Mayor Pro Tempore if the Mayor is not available) for review and approval. The Town Council may take action on any matter noticed in the agenda, in any manner deemed appropriate by the Council. The Town Council's consideration of the noticed matters is not limited by the

recommendations indicated in the Agenda Memos.

A certified Town Council Agenda will be posted at the Town Hall and on the Town's official website no later than 72 hours prior to a regularly scheduled meeting.

Agenda packets will be available at Town Hall for public review no later than 72 hours prior to a regularly scheduled meeting.

### **Who May Place Items on the Agenda**

Items may be placed on the Agenda by the Mayor or Town Council. All requests for Agenda items should be submitted to the Town Secretary in order for proper processing and accumulation of supporting material.

Any individual Town Council member may propose an agenda topic for consideration by the Town Council at the next regular Town Council meeting by delivering to the Town Secretary a written proposed agenda topic for discussion at least one (1) week prior to the date of the next regular Town Council meeting; or, if an action item, at least two (2) weeks prior to the date of the next regular Town Council meeting at which the agenda topic is to be considered.

## **TOWN COUNCIL MEETING PROCEDURES**

### **Role of Council**

The Town Council's role is to establish policies and priorities within the terms of the Town and applicable State and Federal Statutes. Town Council members are public officials. Public officials are agents of the public and hold office for the benefit of the public. Each member of the Town Council is bound to uphold the Constitution of the United States and of the State of Texas, to carry out applicable laws and the provisions of the Town and Ordinances of the Town of Poetry on an impartial basis.

### **Presiding Officer and Duties**

The Mayor, or in the absence of the Mayor, the Mayor Pro-Tem, shall be the Presiding Officer at all meetings of the Town Council. If both the Mayor and Mayor Pro-Tem are absent, an acting Mayor Pro-Tem may be elected by the Town Council members present to preside. The Mayor may call a recess at any time during a meeting.

### **Quorum Requirements**

The Mayor/Presiding Officer shall call the meeting to order at the time designated for a scheduled meeting. Except to adjourn, a quorum is necessary to conduct business at any meeting of the Town Council. Quorum is defined as a majority of the Town Council members.

### **Right of Member to be Heard**

Council members desiring to speak shall gain the attention of the Mayor/Presiding Officer and,

upon recognition by the Mayor/Presiding Officer, shall confine their remarks to the question under debate.

The Mayor/Presiding Officer shall be authorized to ask any Council member to cease or to limit discussion, or to call the question when it appears further discussion or opinions offered will not be meaningful. If a Council member disagrees with the Mayor's call to order, the Town Council may take a vote to continue the discussion.

### **Preservation of Order**

The Mayor/Presiding Officer shall preserve order and decorum, discourage attacks on personalities or the impugning of a Council member's motive, and confine Council member debate to the question under discussion. Persons in attendance at the meeting who become disorderly, abusive, or disruptive may be removed from the meeting.

### **Consideration of Agenda Items**

The **recommended** Town Council procedure for the consideration of an agenda item is as follows:

- A. Mayor reads the agenda item or staff presents its report and recommendation,
- B. The Mayor, representative/applicant can present information/presentation if needed.
- C. Council members may ask questions or discuss the item and deliberate.
- D. During deliberation, Council members may ask anyone present a specific question for clarification.
- E. Council members may ask questions of appropriate experts.
- F. Members of the public are provided with the opportunity to make comments for three minutes. [Or six minutes if an interpreter is needed].
- G. A Council member makes a motion.
- H. Another Council member seconds the motion. (If there is no second, the motion will not be considered.)
- I. Once the motion has been properly made and seconded, the Mayor/Presiding Officer may open the matter for any final discussion among Council members.
- J. Once the matter has been fully discussed, the Mayor/Presiding Officer calls for a vote, no further discussion will be allowed, provided, however, Council members may be allowed to explain their vote.
- K. Mayor/Presiding Officer may ask for any final General comments from the public after all the Agenda items are voted on at the end of the Session under General comments section.

## **Vote of Council**

Unless otherwise provided by law, a majority of the Town Council is required for approval of an issue. The Town Council is made up of five (5) council members, making a majority three (3) votes. The Mayor is not given a vote, except in case of a tie.

## **Appearance before Town Council**

Agenda item “Citizen Comments” provides the opportunity for any member of the public to speak or ask questions on any topic that is on the agenda. During the “General Public Comments” agenda item Citizens may also make comments on any items not on the posted meeting agenda, but Town Council members will be unable to deliberate, but may provide factual responses. There will be an opportunity to speak on public hearing items as those items are announced.

There are several ways for citizens to be heard by the Town Council during regular Council meetings. Citizens may submit written comments to the Town Secretary prior to the meeting. Copies will be made and distributed to Council Members for review before the meeting. Citizens may sign a sheet available in the Council Chambers which will be available as early as thirty (30) minutes prior to the meeting and may be heard on citizen comment period and any scheduled public hearing items. Citizens wishing to be heard during citizen comment and public hearings should sign the appropriate sign-up sheet prior to the commencement of the meeting. The Mayor/Presiding Officer may ask for any final comments from the audience. After final comments are made, individuals who did not sign up, but spoke, will be asked to sign the sign-up sheet for the record.

No person may speak without being recognized by the Mayor/Presiding Officer. Any citizen desiring to address the Town Council should come to the podium or designated location to address the Council and be recognized by the Mayor/Presiding Officer.

After being recognized by the Mayor/Presiding Officer, the person shall approach the podium and state his/her name and **should give his/her** address for the record before making their remarks. Audience members shall address their comments to the Mayor/Presiding Officer, avoid personalizing, or directing comments to any one or more individuals, and avoid lengthy commentary. State law prohibits the Town Council from taking any action on any item unless it appears on the posted meeting agenda. Inquiries from speakers about matters not listed on the agenda will either be directed to the Secretary or placed on a future agenda for Council to consider.

In order to conduct a timely meeting, each individual’s comments may be limited to three (3) minutes unless the Mayor/Presiding Officer grants an extension of time. No person may be allowed to yield their time to another person.

Members of the audience may not engage in disorderly conduct, including the utterance of loud, threatening, or abusive language, clapping, whistling, and stamping of feet or other acts, which disturb, disrupt, impede, or otherwise render the orderly conduct of the Town Council meeting impractical. A member of the audience engaging in any such conduct may, at the discretion of the Mayor/Presiding Officer or a majority of the Town Council, be subject to ejection from that meeting.



The Mayor/Presiding Officer shall have the discretion to take any measures necessary to maintain control of a public meeting in order to ensure the fair and impartial conduct of business and the timely completion of that business. The Mayor/Presiding Officer may, at his/her discretion, shorten the time for speaking.

No disruptive audible electronic device use is allowed in the Council Chambers.

### **Appointment of Board/Committee Members**

The Council shall have the discretion to appoint various members of the public to any boards and/or committees.

### **Ordinances**

An ordinance is the most authoritative form of action the Council can take. An adopted Ordinance becomes an established rule of law of the Town and remains in effect until otherwise rescinded or amended by the Council.

All proposed ordinances must be either drafted or approved by the Town Attorney.

### **Resolutions**

Resolutions are acts of a relatively permanent nature and remain in effect until rescinded or amended by the Town Council. Generally, resolutions implement or carry out the terms of an Ordinance, provide a statement of policy, or express Council's opinion on a public matter. Resolutions shall be in written form but need not be published.

### **Motions**

A motion refers to a formal proposal by a Council member that the Town Council may take action upon. Motions are generally introduced by voice.

### **COUNCIL MEMBER CONDUCT STANDARDS**

Each elected official of the Town of Poetry, Texas is bound to observe in his/her official acts the highest standards of morality and to discharge faithfully the duties of the office regardless of personal considerations, recognizing that the public interest must be their primary concern. Council members should be independent, impartial and responsible to the citizens, and such public office shall not be used for personal gain. The conduct of each member in both their official and private affairs should be above reproach. Council members must represent unconflicted loyalty to the interest of the citizens of the entire Town. This accountability supersedes any conflicting loyalty, advocacy or special interest group, or any individual, or membership of (or affiliation with) any company or other private or public organization.

## Duty to Perform/Conflict of Interest

It is considered that by seeking and accepting public office, each Council member is bound to perform the inherent duties of his/her office, one of the foremost of which is to vote on every issue that is brought before the Council for a vote. An exception to the duty to vote would be in the case of a conflict of interest. In such case, the abstaining Council member shall have the right to explain for the record the nature of the conflict of interest. Abstentions from voting without declaring a conflict of interest are unacceptable. Each Council member shall maintain a current statement regarding actual and potential conflicts of interests, as required by law, with the Town Secretary. Council members shall disclose orally prior to the discussion and action of any agenda item any actual conflicts of interest that exist with that item. Council members shall not participate in the discussion or vote on any agenda item in which the Council member has any conflict of interest. **These provisions should be followed unless state law dictates otherwise.**

## Violations of this Policy

Whenever the Mayor or another member of the Council perceives that this policy is being violated, a point of order may be called. The Mayor shall rule on whether a violation has occurred and shall take whatever steps that he/she deems appropriate to remedy any such violation.

## Standards of Community Service

Each Mayor and Council member shall be an example of community service. In a town where property taxes are non-existent, volunteerism is essential. Therefore, the council should lead by example. Over each fiscal year, each member of council should accumulate a minimum of 15 hours in service to the town *outside* of the duties on council i.e., time preparing or in town council meetings and ensure that the community service hours are written in the Volunteer Log Book. These service hours might be helping with the Clean-up days, repairing items at Town Hall, preparing for a Town special event, or the like.

**Section 2. Effective Date.** This Resolution shall be effective immediately upon its passage and approval. PASSED AND ADOPTED this 21st day of September 2021.

Updated October 19<sup>th</sup>, 2023.

APPROVED:

Tara Senkevech, Mayor

ATTEST:

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Deputy City Secretary, Theresa Scholander

**STATE OF TEXAS  
COUNTIES OF KAUFMAN AND HUNT  
CITY OF POETRY, TEXAS**

**BE IT REMEMBERED THAT ON THIS DAY OF THE** 21<sup>st</sup> of September, 2023 at 6:30 pm, the City Council of Poetry, Texas, held a Workshop, Budget Public Hearing, and Regular Town Council Meeting at 5671 CR 323 Poetry, Texas, 75160 with the following present:

Mayor Tara Senkevech  
Councilmember Tom Anderson  
Councilmember Mike Jaffe

Councilmember Simeon White  
Councilmember Terry Fowler  
Councilmember Jonathan Blake

**Mayor Senkevech** called the meeting to order at 6:30 pm.

**Evie Anderson, Clerk** confirmed quorum.  
All council members were present.

**Pledge of Allegiance and Invocation**  
**Councilmember Blake** led the pledge and invocation.

**f: Mayor Tara Senkevech** gives items of community interest;

\*Kaufman County is celebrating 175 years Anniversary. They are having a parade with all the mayors of Kaufman County and the representative school mascots on October 14th on Washington Avenue in Kaufman at 9 am. It begins at the Auto Zone in Kaufman. schools. They are also having a Harvest Festival. All are welcome!

\* Thanks to Wesley Jackson & Brett Patterson of Ace Paint & Décor for all the Tape, Bed & Texture in new closet and repairing cracks from the move and repainting the interior.

\* Thanks to Kane Hansard for installing lighting in closet.

\* Thanks to Bob Boles for installing the speaker system in the new town hall.

\* Thanks to Sheri Vinson for typing the minutes.

\* Thanks to Corinne Hanson for assistance in watering trees at Town Hall.

\* Thanks to CM Blake, CM Anderson, former CM Vinson, and Kevin Senkevech and for helping us move much of our furniture into the town hall.

\* Thanks to Rae Hirogoyen for helping clean and work on the floor at Town Hall.

\*Thanks to CM Tom Anderson for putting up the handicapped sign and Town Hall sign as well as a street sign on CR2426. In looking at the history for the last 6 months, it shows that we CAN accommodate those who show up.

\*Thanks to CM Anderson and CM Jaffe for assisting with moving a file cabinet and cleaning up debris at Town hall.

Every hour donated, helps our town avoid taxes. We also get to know each other better and build our community in the process.

**\*CURRENT NEEDS:**

\* Two small trees need to be cut down at the edge of the town hall property.

Looking for a volunteer.

**g) WORKSHOP Meeting 6:30 pm -7:25 pm.**

Topic: Discuss the Zero Zoning or other Ordinance proposed. Citizen Patrick Smith asks about Town Council Decorum Policy. Citizen Shelley Smith wishes both ordinances had been in the current packet. Citizen Tracie Hibbs asks that the workshop be moved to another date. Citizen Doug Kendrick gives suggestions for council to approve some zoning.

**Councilmember Fowler** discusses building sizes vs. fire codes, and setbacks; Council discusses their concerns, and asks questions of Legal.

**Mayor Senkevech** calls for 5-minute break.

**h) BUDGET PUBLIC HEARING 7:30 pm**

Topic: Discuss and take action on the proposed budget for fiscal year Oct. 1,

2023-September 30th, 2023. Mayor Senkevech gives proposed break downs. Citizen Patrick Smith asks when the proposed budget was filed with the town. Citizen Shelley Smith states that the meeting times on the website were wrong. Citizen Tracie Hibbs asks about the ADA compliance on the ramp. Citizen Dale Bryant asks about the budget for street signs and sight line work. Motion made to accept by Councilmember Anderson, seconded by Councilmember Blake. Passes 5:0

ORDINANCE NO. 2023-09-01 Motion made to accept by **Councilmember Anderson**, seconded by **Councilmember Blake**. **Councilmember Fowler** votes to pass, **Councilmember Jaffe** votes to pass, **Councilmember White** votes to pass. Passes 5:0

**I) REGULAR MEETING**

**j) Reports**

**1. Financial— a) August end 2023**

**Councilmember Fowler** asks for clarification and re posting.

**b) Sales & Use Tax Receipts**

**2. Secretary's Report—Deputy City Secretary Theresa Scholander**

**3. Town Hall Report—passed inspection. Councilmember Anderson** gives the Inspection overview.

**4. New TEC rule: Any campaign or SPAC reports filed on or after Sept 1, 2023 must be posted on a city website within 10 days of receipt and kept there for 5 years. [Certain items must be redacted online, but not on original].**



**k) Consent Agenda:**

1. Minutes from August 10th, 2023, Meeting. Motion made to move to consent agenda by **Councilmember Jaffe**, seconded by **Councilmember Blake**. **Passes 5:0**
2. Pay July legal bill of \$853.64 Motion made to pay by **Councilmember Anderson**, seconded by **Councilmember White**. **Passes 5:0**

**l) Regular Agenda:**

**a) Minutes for August 10<sup>th</sup>, 2023.** **Councilmember Jaffe** adds verbiage to minutes. Motion made by **Councilmember Fowler** to approve minutes with edits made by **Councilmember Jaffe**, seconded by **Councilmember White**. **Passes 5:0**

**1) Discuss and take action if needed on the Poetry Post Newsletter.**

**Councilmember Fowler** prefers not to solicit for contractors. He also would like to remove 'Poetry Proud' from the newsletter. Citizen Shelley Smith voices her agreement with Councilmember Fowler. Citizen Tracie Hibbs suggests using the Poetry Seal for the newsletter. Citizen Robin Boles votes for Poetry Strong. **Councilmember Fowler** makes motion to remove 'Poetry Proud' from the newsletter, and to place the town seal on front and back of the newsletter. Seconded by **Councilmember Blake**. **Passes 5:0**

**2) Discuss and take action on the updated map of town to include the volunteer annexation for purposes of the 1445 agreement. No action taken.**

**3) Discuss and take action on the 1445 agreement.** The council discusses certain amendments. Citizen Patrick Smith asks about people in the Poetry ETJ. Citizen Shelley Smith asks about amended minutes vs. current agreement. The council decides to edit and present to Hunt County for suggestions.

**4) Discuss and take action regarding meeting places for Council meetings.**

**Councilmember Fowler** expresses concerns over occupancy. Citizen Doug Kendrick, as a retired Fire Chief recommends contacting the State Fire Marshal. Citizen Patrick Smith expresses concern over an ordinance that states the address for council meetings is not Town Hall. Citizen Glenn Strauss has concern over the number of seats available at Town Hall. Citizen Shelley Smith asks about the ordinance stating the address for meetings, and states that air flow is a concern. Councilmember Jaffe expresses hopes for moving past the history of our town members, saying that there are amazing people here. **No action.**

**5) Discuss and take action regarding a Town position in addressing tree removal for those which are in the Right of Way.** The council feels that trees are the homeowner's responsibility. **Councilmember Anderson** makes motion to send letter to homeowners stating council's position. Seconded by **Councilmember Blake**. **Passes 5:0**

**6) Discuss and take action on contracting with someone to clean the town hall each month up to 4 hours each month.** **Councilmember Anderson** makes motion to find contracted cleaner, seconded by **Councilmember Blake**. **Passes 5:0**

**7) Discuss and take action on letter of engagement with CPA for annual audit.** Motion made to accept by **Councilmember Jaffe**, seconded by **Councilmember Anderson**.  
**Passes 5:0**

**8) Discuss moving the Regular October meeting to Thursday, October 12th, Tuesday Oct 17th, or Wednesday, Oct. 18th to meet a legal requirement. No Action**

**m) General Public Comments**

Citizen Shelley Smith asks if the Mudd has contacted Poetry Water.

Citizen Robin Boles asks for positive attitudes to help grow the town.

Citizen Jack Senkevech congratulates everyone who worked on the town hall.

**Mayor Senkevech** adjourns the meeting at 10:12 pm.

Minutes typed by Sheri Vinson.

**(PLEASE MAKE CHECK  
PAYABLE TO KEVIN  
ELLETT)Kevin's Tree  
Service Plus**



Kevin Ellett  
**Business Number** [469-344-9964](tel:469-344-9964)  
1318 W. Moore Avenue Suite b  
☎ [469-344-9964](tel:469-344-9964)  
☎ [469-596-9358](tel:469-596-9358)  
Treguy.me  
kevinstreeservice96@gmail.com

**ESTIMATE**  
EST0419  
**DATE**  
08/16/2023  
**TOTAL**  
USD \$550.00

TO

**Town of Poetry**

5671 County Road 323 Poetry Tx  
☎ [\(214\) 317-8128](tel:214-317-8128)

DESCRIPTION	RATE	QTY	AMOUNT
Two medium size trees removed. Cut low to ground. Includes cleanup and haul off	\$550.00	1	\$550.00
<b>TOTAL</b>			<b>USD \$550.00</b>

**ORDINANCE NO. 2021-10-01**

**AN ORDINANCE OF THE TOWN OF POETRY, TEXAS, ADOPTING REGULATIONS RELATING TO THE COLLECTION OF SOLID WASTE FROM CUSTOMERS WITHIN THE TOWN; REQUIRING A PERMIT AND AGREEMENT FOR THE USE OF THE TOWN STREETS TO CONDUCT SUCH BUSINESS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS OF THIS ORDINANCE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE AND EACH AND EVERY DAY A VIOLATION OCCURS OR CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE; PROVIDING FOR ENROLLMENT AND ENGROSSMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Poetry, Texas (the "Town") is a general law municipal corporation duly organized and validly existing under the laws of the State of Texas and located within Kaufman and Hunt Counties, Texas; and

**WHEREAS**, on November 3, 2020 the Town incorporated; and

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

**WHEREAS**, all legal prerequisites for the passage of this Ordinance have been met, including but not limited to the requirements of the Texas Open Meetings Act; and

**WHEREAS**, the Town Council of the Town of Poetry finds and determines that a public need exists to regulate the collection of solid waste in the Town's limits in order to protect the public streets and provide for the general health, safety and welfare of the citizens.

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

**SECTION 1. RECITALS.** The Town Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the Town Council hereby incorporates such recitals as part of this Ordinance.

**SECTION 2. FRANCHISE AGREEMENT APPROVED.** The Town Council of the Town of Poetry hereby approves the form of the nonexclusive solid waste franchise agreement for solid waste vendors within the Town, attached hereto and incorporated as if set forth fully herein as Exhibit A.

**SECTION 3. ADOPTION OF SOLID WASTE REGULATIONS.** That the following provisions shall be and are hereby adopted as the regulations of the Town of Poetry, Texas, providing for the collection of solid waste:

## **SECTION 1. DEFINITIONS**

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

**COLLECTOR** means any person, corporation, partnership or similar entity that contracts for valuable consideration to pick up or collect municipal solid waste on a regular basis from any collection point within the corporate limits of the Town of Poetry.

**MUNICIPAL SOLID WASTE** means solid waste resulting from or incidental to municipal, community (residential), commercial, institutional, and recreational activities, and includes garbage, rubbish, ashes, street cleanings, and other solid waste other than industrial solid waste as defined by state or federal law. Municipal Solid Waste may include construction and demolition waste.

**TOWN** means the Town of Poetry.

## **SECTION 2. PERMIT AND FRANCHISE AGREEMENT REQUIRED**

- A. No collector shall collect any municipal solid waste within the corporate limits of the Town without first applying for and obtaining a permit to do so from the Mayor or his/her designee. Such permit shall be on such forms as the Town may determine. An annual permit fee in the amount of \$100 is due and payable at the time of application for a permit. It shall be unlawful for any person, firm or corporation to collect municipal solid waste or to engage in the business of municipal solid waste collection without first having been issued a permit to do so from the Town. The Mayor or his/her designee may provide notice of noncompliance with these regulations to such a collector and offer ten (10) days for compliance. However, failure of the Town to provide this notice does not preclude the Town from initiating citations and pursuing action pursuant to Chapter 54 of the Texas Local Government Code, as amended, against any collector in violation of the Town's solid waste regulations.
- A. In addition to the foregoing permit requirement, any person, firm corporation, or Collector collecting solid waste from any residence within the Town shall first enter into a Franchise Agreement with the Town. It shall be unlawful for any person, firm or corporation to collect municipal solid waste or to engage in the business of municipal solid waste collection without first having entered into a Franchise Agreement with the Town.
- B. No Collector shall allow any municipal solid waste to spill or fall from the Collector's equipment within the corporate limits of the Town. In the event that spillage should occur, the Collector shall completely remove such spillage within twenty-four (24) hours of notice of spillage occurrence.
- C. No Collector shall cause damage, beyond normal wear and tear, to any street or roadway within the Town. In the event the Collector causes damage to any street or roadway within the Town, the Collector shall be given written notice to immediately



cause such damage to be repaired under the supervision of the Town designee. Such notice shall provide that in the event Collector does not acknowledge responsibility for making such repairs within seven (7) days of notice, a hearing will be held by the Town Council on the question of responsibility for such damage. If at such hearing the Council finds that the damage was caused by Collector and such damage was beyond normal wear and tear, the Town Council may request Collector to cause such damage to be repaired under the supervision of the Town designee and if such damage is not repaired within the time stated the Town Council may within its sole discretion terminate Collector's franchise and right to use the public streets within the Town to carry on its business.

- D. All Collectors shall clearly mark all collection vehicles with the Collector's name, telephone number and DOT#. All collection vehicles used by Collectors to collect municipal solid waste within the Town shall be no larger than a "single axle" type, and shall not exceed 33,000 pounds GVWR, unless specific written approval is granted by the Town Council. Trucks used for commercial and roll-off services may be tandem axles and may not exceed 60,000 GVWR.
- E. Collector must use trucks and equipment meeting the approval of the Town that will prevent spillage, and damage to the streets and ways used by such trucks and equipment. Collector shall also abide by any Town regulations with regard to the placement of collection containers if it becomes necessary to establish such regulations.
- F. Collector shall provide the Town with a certificate of insurance demonstrating that Collector has obtained all required forms of insurance pursuant to this Section. It shall be unlawful for any person, firm or corporation to collect municipal solid waste or to engage in the business of municipal solid waste collection without an accepted certificate of insurance on file with the Town.

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

Type Coverage	Occurrence Minimum	Aggregate Minimum
Worker's Compensation (or other state-approved program)	As required by law and shall cover all employees including drivers.	As required by law.
Comprehensive & General Public Liability	\$1,000,000	\$1,000,000
Property Damage	\$1,000,000	\$1,000,000
Comprehensive Auto Liability Bodily Injury	\$1,000,000	\$1,000,000

Comprehensive Auto Liability- Property Damage	\$500,000	\$1,000,000
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Each insurance policy to be provided to the Town shall include the conditions as described below, as well as the following conditions by endorsement to the policy:

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

Specific Additional Insurance Requirements:

**1. General Liability Insurance:**

General Liability insurance with combined single limits of not less than \$1,000,000 shall be provided and maintained by the Contractor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

If the Commercial General Liability form (ISO Form CG 0001 current edition) is used:

- i. Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
- ii. Coverage B shall include personal injury.
- iii. Coverage C, medical payments, is not required.

## **2. Automobile Liability Insurance:**

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than \$1,000,000 either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

Satisfaction of the above requirement shall be in the form of a blanket-form policy endorsement for:

- i. any auto, or
- ii. all owned, hired and non-owned autos.

## **3. Worker's Compensation Coverage or other state-approved program**

Contractor agrees to maintain insurance for workers' compensation or self-insured employee coverage meeting the requirements established by the Tex. Worker's Comp. Act, Texas Labor Code in the amounts not less than \$500,000.

**G. COLLECTOR SHALL DEFEND, INDEMNIFY, AND HOLD TOWN AND EACH OF ITS OFFICERS AND EMPLOYEES HARMLESS FROM ANY AND ALL SUITS, ACTIONS, CLAIMS, LOSSES OR DAMAGES OF ANY CHARACTER AND FROM ALL EXPENSES INCIDENTAL TO THE DEFENSE OF SUCH SUITS, ACTIONS OR CLAIMS BASED ON OR ARISING OUT OF ANY INJURY, DAMAGE, LOSS, DISEASE, SICKNESS, OR DEATH OF ANY PERSON OR PERSONS, OR ANY DAMAGES TO ANY PROPERTY CAUSED BY ANY ACT OR OMISSION OF COLLECTOR OR ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES OR ANYONE ELSE UNDER COLLECTORS DIRECTION AND CONTROL, AND ARISING OUT OF, OCCURRING IN CONNECTION WITH, RESULTING FROM, OR CAUSED BY THE PERFORMANCE OR FAILURE OF PERFORMANCE OF ANY**

**WORK OR SERVICES UNDER THE COLLECTION AGREEMENT OR CONDITIONS CREATED BY THE PERFORMANCE OR NON-PERFORMANCE OF SAID WORK OR SERVICES.**

- H. No Collector shall collect any municipal solid waste within the corporate limits of the Town without first obtaining and holding all other permits or licenses required by any other governmental agency or political subdivision having jurisdiction over Collector's operations, including but not limited to the Texas Commission on Environmental Quality. Collector must be duly licensed or permitted to deposit municipal solid waste at or in a landfill regulated and approved by the proper State agency.

**SECTION 3. ADOPTION OF SOLID WASTE REGULATIONS**

It shall be the duty of every person owning, controlling, managing, operating, leasing, renting or occupying any premises where municipal solid waste, garbage and/or trash accumulates to:

- A. Provide and maintain suitable containers for the placement of garbage and/or trash. Such containers may consist of galvanized iron, tin or other suitable metal or plastic cans with two handles and a tight-fitting cover with a handle for removal, or such other containers as may be approved by the Town Council. Garbage and/or trash shall be placed within plastic or treated paper bags which shall then be placed within the appropriate approved container. The capacity of such containers shall be not less than twenty (20) nor more than ninety-five (95) gallons. Each person must provide a sufficient number of such containers to accommodate the garbage and/or trash in relation to the individual needs of the users.
- B. Maintain containers in a sanitary condition and keep lids on containers at all times to prevent flies and other insects from coming in contact with the contents.
- C. Gather any and all garbage and/or trash from their premises and place said garbage and/or trash in the specified containers and maintain and keep the area in and around the garbage containers clean and in a sanitary condition at all times.

add language

**SECTION 4. SEVERABILITY.**

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

**2.2** That Section 5, "Penalty for Non-compliance", of Ordinance No. 2021-10-01 of the Town of Poetry, is hereby amended as follows:

**SECTION 5. PENALTY FOR NON-COMPLIANCE.**

That any person, firm or corporation violating any of the provisions or terms of this Ordinance, as amended, shall be deemed guilty of a misdemeanor and subject to a penalty not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense, and each and every day a violation occurs or continues shall constitute a separate offense. The Town may also pursue a civil enforcement action for each violation of this Ordinance, pursuant to Chapter 54 of the Texas Local Government Code, as amended.

The remedies authorized by this section are inclusive and not exclusive and shall in no way prevent the Town from exercising all other remedies at law to which it may be entitled.

**SECTION 6. ENROLLMENT/ENGROSSMENT.**

The Mayor is hereby directed to engross and enroll this Ordinance by copying the exact Caption and Effective Date clause in the minutes of the Town Council and by filing this Ordinance in the Ordinance Records of the Town.

**SECTION 7. EFFECTIVE DATE.**

That this Ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provide.

**DULY ADOPTED** by the Town Council of the Town of Poetry, Texas on the 16th day of November 2021.

APPROVED:

\_\_\_\_\_  
MAYOR, TARA SENKEVECH

ATTEST:

\_\_\_\_\_  
TOWN SECRETARY



Exhibit A

(EXHIBIT A)

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

**THIS FRANCHISE AGREEMENT (this “Agreement”)** is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2021, by and between **NAME OF COLLECTOR**, (the “COLLECTOR”), and the Town of Poetry, Texas (the “Town”).

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

**WHEREAS**, the Town, subject to the terms and conditions set forth herein and the ordinances and regulations of the Town, desires to grant to the Collector the non-exclusive franchise, license and privilege to collect, haul and dispose of Municipal Solid Waste, Residential Solid Waste, and Construction and Demolition Waste (as such terms are defined herein) within the Town's corporate limits.

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

**SECTION 1. DEFINITIONS**

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

**BUSINESS DAY:** Any day that is not a Sunday or a day listed as a *Holiday* herein.

**COLLECTOR:** *NAME OF COLLECTOR* a Texas [entity] authorized and registered to do business in the State of Texas, and its successors and assigns.

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

**CONTAINER:** Any receptacle, including, but not limited to, dumpsters, roll-offs and carts provided by Collector for collecting Municipal and Residential Solid Waste and Construction and Demolition Waste.

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

**HOLIDAYS:** The following days:

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

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

**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.

**RESIDENTIAL SOLID WASTE:** Solid Waste resulting from or incidental to any residence.

**SERVICES:** the services provided by Collector pursuant to this Agreement.

**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, Texas Health & Safety Code, §361.003(20), as amended.

**TOWN:** Means the Town of Poetry, Texas.

## **SECTION 2. FRANCHISE GRANT**

The Town hereby grants to the Collector in accordance with the Town's ordinances and regulations governing the collection, hauling and disposal of Residential Solid Waste, Municipal Solid Waste and Construction and Demolition Waste, and this Agreement, the non-exclusive franchise, license and privilege to collect, haul and dispose of Residential Solid Waste, Municipal Solid Waste and Construction and Demolition Waste over, upon, along and across the Town's present and future streets, alleys, bridges, and rights-of-ways.

## **SECTION 3. REGISTRATION FEE**

Collector shall be required to pay an annual registration fee of \$100, which along with this Franchise

Agreement, entitles them to collect solid waste within the corporate limits of the Town for one year. Such registration shall be on such forms as the Town may determine. It shall be unlawful for any person, firm or corporation to collect Municipal Solid Waste, Residential Solid Waste or Construction and Demolition Waste, or to engage in the business of Municipal Solid Waste, Residential Solid Waste, and Construction and Demolition Waste collection without first having been issued a registration to do so from the Town.

#### **SECTION 4. OPERATIONS.**

A. **SCOPE OF OPERATIONS.** It is expressly understood and agreed that the Collector will collect, haul and dispose of Residential Solid Waste, Municipal Solid Waste and Construction and Demolition Waste during Business Days: (i) generated and accumulated by Collector's customers, and (ii) placed within Containers, if required by Collector, by those customers receiving the services of the Collector, all within the Town's corporate limits, including any territories annexed by the Town during the term of this Agreement (the "Services"). This Agreement does not cover services provided in the Town's extraterritorial jurisdiction.

B. **NATURE OF OPERATIONS.** The Town hereby grants to the Collector, in accordance with the Town's ordinances and regulations governing the collection, hauling and disposal of Residential Solid Waste, Municipal Solid Waste and Construction and Demolition Waste, and this Agreement, the title to all Residential Solid Waste, Municipal Solid Waste or Construction and Demolition Waste collected, hauled and disposed of by the Collector over, upon, along and across the present and future streets, alleys, bridges, and rights-of-ways.. All title to and liability for materials excluded from this Agreement shall remain with the generator of such materials.

#### **SECTION 5. TITLE TO EQUIPMENT.**

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

#### **SECTION 6. EXCLUSIONS.**

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

#### **SECTION 7. TERM OF AGREEMENT.**

The initial term of this Agreement shall be for the period of one year from the date this Agreement is executed ("Execution Date"). This Agreement may be renewed and extended for one additional period of one year, provided, that Collector and Town mutually agree in writing at least sixty (60)

days prior to the expiration of the initial term to renew the Agreement and Contractor has satisfactorily performed all conditions under this Agreement. The Town may deny the renewal of this Agreement. Upon expiration of this Agreement, Collector shall be responsible for payment to Town for all franchise fees due to Town under Section 10 below

### **SECTION 8. ASSIGNMENT.**

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

### **SECTION 9. ENFORCEMENT.**

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

### **SECTION 10. FRANCHISE FEES.**

In addition to the annual registration fee the Collector shall pay to the Town a monthly franchise fee under this Agreement in the amount of:

- A. Each Unique Residential Address - \$6.50/month
- B. Each Dumpster - \$15.00/month
- C. Each Roll-Off Container – \$25.00/month

### **SECTION 11. FRANCHISE FEE PAYMENT**

Franchise fees shall be paid to the Town on or before the tenth (10th) day after the beginning of each quarter for amounts received by the Collector for the performance of Services during the quarter, according to the dates provided below. If this Agreement is entered into or terminated in the middle of a quarter, the applicable quarter will be prorated to exclude the time during the quarter in which no Service was provided. The Town agrees that payments owing from the Collector pursuant to this Agreement shall be based solely on the Services rendered by the Collector. The Collector shall not be held responsible for the collection of "bad debt" billed by and owed to Collector for the Services.

- 1<sup>st</sup> quarter: January 10<sup>th</sup>
- 2<sup>nd</sup> quarter: April 10<sup>th</sup>
- 3<sup>rd</sup> quarter: July 10<sup>th</sup>
- 4<sup>th</sup> quarter: October 10<sup>th</sup>

with the terms hereof. The Town agrees to treat any information disclosed to it by Collector under

normal business hours and on a nondisruptive basis, as reasonably necessary to monitor compliance. Each payment to the Town shall be accompanied with a statement detailing Collector's quantities of each service type, enabling the Town to verify the appropriate payment. The Town may review Collector's books and records that relate to customers within the Town's corporate limits, during this Section as confidential, and to disclose it only to employees, representatives, and agents of the Town that have a need to know, or in order to enforce the provisions hereof, except where required by law to disclose such information.

## **SECTION 12. SPILLAGE.**

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

## **SECTION 13. HOURS OF SERVICE.**

For all the services provided hereunder, the Collector's hours of service shall be between 6:00 AM and 8:00 PM, Monday through Saturday. The Collector will not be required to provide service on Sunday or Holidays except during natural disasters or emergencies, and may, at its sole discretion, observe Holidays during the term of this Agreement.

## **SECTION 14. COMPLIANCE WITH APPLICABLE LAWS.**

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

## **SECTION 15. VEHICLES AND EQUIPMENT.**

Vehicles used by the Collector for the collection, hauling and disposal of Residential or Municipal Solid Waste and Construction and Demolition Waste pursuant to this Agreement shall be protected at all times while in transit to prevent the blowing or scattering of waste onto the Town's public streets, or properties adjacent thereto, and such vehicles shall be clearly marked on both sides with the Collector's name in letters and numbers not less than two (2) inches in height. The Town may adopt weight limits and maximum vehicle axle weight limits on vehicles used by Collector as the



Town deems appropriate to minimize disruption and damage to the Town’s streets, alleys and rights-of-way. Trucks operated within the Town of Poetry for residential collection must be single axle (1 steering and 1 rear) and may not exceed 33,000 pounds GVWR. Trucks used for commercial and roll-off services may be tandem axle (1 steering and 2 rear) and may not exceed 60,000 pounds GVWR.

**SECTION 16. DUE CARE.**

The Collector shall exercise due care and caution in providing the Services so that the Town’s public and private property, including streets and parking areas, will be protected and preserved.

**SECTION 17. INSURANCE COVERAGE.**

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

<b>Type Coverage</b>	<b>Occurrence Minimum</b>	<b>Aggregate Minimum</b>
Worker's Compensation (or other state-approved program)	As required by law and shall cover all employees including drivers.	As required by law.
Comprehensive & General Public Liability	\$1,000,000	\$1,000,000
Property Damage	\$1,000,000	\$1,000,000
Comprehensive Auto Liability Bodily Injury	\$1,000,000	\$1,000,000
Comprehensive Auto Liability-Property Damage	\$500,000	\$1,000,000

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

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

1. the General liability insurance policy shall name Town and its officers, employees, and elected representatives as an additional insured without restrictions via blanket-form endorsement.

2. the policy phrase "other insurance" shall not apply to the Town where the Town is an additional insured; the policy shall specify that it is primary and non-contributory with any of the Town's policies and will state that each insured is provided coverage as though a separate policy had been issued to each, except that the insurer's liability will not be increased beyond the amount for which the insurer would have been liable had only one insured been covered;
3. each policy, except workers' compensation or other state approved program, shall require that 30 days prior to cancellation, non-renewal or any material change in coverage, a notice thereof shall be sent to Town by email. If the policy is canceled for nonpayment of premium, only 10 days' written notice to Town is required;
4. the term "Town" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of the Town and individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of the Town;
5. all policies are to be written through companies duly licensed to transact that class of insurance in the State of Texas;
6. all liability policies required herein shall be written with an "occurrence" basis coverage trigger;
7. prior to the effective date of cancellation of any policy, Contractor shall deliver to the Town a replacement certificate of insurance evidencing coverage;
8. each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least A-; and
9. the Special Provisions Section shall state that the liability policies have been endorsed via blanket-form endorsement to provide for waivers of subrogation, to provide that those policies are primary and non-contributory as to the Town.

**Specific Additional Insurance Requirements:**

*All insurance policies or other state-approved program proposed or obtained in satisfaction of this Contract shall additionally comply with the following marked specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:*

**A. General Liability Insurance:**

General Liability insurance with combined single limits of not less than \$2,000,000 shall be provided and maintained by the Contractor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

If the Commercial General Liability form (ISO Form CG 0001 current edition) is used:

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
- Coverage B shall include personal injury.
- Coverage C, medical payments, is not required.

**B. Automobile Liability Insurance:**

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than \$1,000,000 either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

Satisfaction of the above requirement shall be in the form of a blanket-form policy endorsement for:

- any auto, or
- all owned, hired and non-owned autos.

**C. Worker's Compensation Coverage or other state-approved program**

Contractor agrees to maintain insurance for workers' compensation or self-insured employee coverage meeting the requirements established by the Tex. Worker's Comp. Act, Texas Labor Code in the amounts not less than \$500,000.

**SECTION 18. INDEMNITY.**

**THE COLLECTOR ASSUMES ALL RISKS OF LOSS OR INJURY TO PROPERTY OR PERSONS ARISING FROM ITS PERFORMANCE OF THE SERVICES. THE COLLECTOR AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE TOWN 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) INCIDENT TO ITS PERFORMANCE OF THE SERVICES THAT ARISE OUT OF A WILLFUL OR NEGLIGENT ACT OR OMISSION OF THE COLLECTOR, ITS OFFICERS AND EMPLOYEES. HOWEVER, THE COLLECTOR SHALL NOT BE LIABLE FOR ANY LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES AND ATTORNEYS' FEES ARISING FROM THE SOLE NEGLIGENCE OF THE TOWN, ITS AGENTS, DIRECTORS, EMPLOYEES, OFFICERS AND SERVANTS. NOTHING CONTAINED WITHIN THIS SECTION OR WITHIN THIS AGREEMENT SHALL BE DEEMED TO WAIVE OR IN ANY WAY ALTER THE TOWN'S SOVEREIGN IMMUNITY**

**OR THE TOWN'S OFFICIAL, QUALIFIED OR LEGISLATIVE IMMUNITIES. NOTHING CONTAINED WITHIN THIS AGREEMENT SHALL IN ANY WAY BE DEEMED TO CREATE OR GRANT RIGHTS OR BENEFITS TO ANY PERSON NOT A PARTY TO THIS AGREEMENT.**

#### **SECTION 19. SEVERABILITY.**

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

#### **SECTION 20. TERMINATION.**

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

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

B. In the event of termination for the reasons set forth in the foregoing paragraphs A (1) through (6) the Town shall notify Collector of the reasons for consideration of termination and Collector shall have a period of thirty (30) days to cure such reason.

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

#### **SECTION 21. 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, unusually severe weather, lack of adequate fuel, or judicial or governmental laws or regulations.

#### **SECTION 22. GOVERNING LAW.**

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

#### **SECTION 23. NOTICE.**

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

#### **SECTION 24. MERGER CLAUSE.**

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

#### **SECTION 25. COUNTERPARTS.**

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

#### **SECTION 26. RECITALS.**

The recitals to this Agreement are incorporated herein.

**SECTION 27. EFFECTIVE DATE.**

This Agreement is effective beginning \_\_\_\_\_, 2021.

Executed in single or multiple originals this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**COLLECTOR:**

[Address]

\_\_\_\_\_

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

Name: (Print  
please) \_\_\_\_\_

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

**CITY:**

[Address]

\_\_\_\_\_

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

Name: Tara Senkevech

Title: Mayor