



ORDINANCE NO. 2023-05-31.4

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWK COVE, TEXAS,
GOVERNING COUNCIL MEMBERS' COMMUNICATIONS WITH THE CITY OF HAWK COVE'S
VENDORS, CONTRACTORS, AND REPRESENTATIVES; PROVIDING FOR CUMULATION
AND SEVERANCE, PROVIDING PENALTIES AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, The City of Hawk Cove, Texas ("City") is a Type-A General Law Municipality located in Hunt County, Texas, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of The State of Texas; and

WHEREAS, the final and ultimate responsibility for the government of City and administration of its business rests in The City of Hawk Cove, Texas, City Council ("Council" or "governing body"), which Council consists of the Mayor of The City of Hawk Cove, Texas, ("Mayor") and five (5) aldermen ("Council members"); and

WHEREAS, it is the duty of the Council to enact and enforce ordinances, resolutions and regulations to protect and preserve the business, property, health, safety, morals and general welfare of City's citizens and City business and operations; to preserve peace and good order in the municipality (see, Local Government Code ("LGC"), Sections 22.042, 54.001, 54.002 and 54.003) so as to foster, establish and maintain goodwill and productive working City relationships, both within and outside of The City of Hawk Cove ("City"); as well as to establish and maintain goodwill and working relationships with all past, present, or prospective entities, business vendors, business candidates and similar contacts – and particularly governmental entities – (herein collectively referred to as "Contractors") relating to City's business, practices and operations; and

WHEREAS, it is a function of the Council to regulate itself (see, LGC, Section 22.072(b)) and ensure compliance by all members of the Council with all City obligations, including the obligation to keep the City's business moving ahead smoothly and efficiently (see, p. 32, *Handbook for Mayors and Councilmembers*, Texas Municipal League, © 2022) as enacted by City's ordinances; and

WHEREAS, after due consideration, the Council hereby deems that City's present ordinances, resolutions and regulations are inadequate for: protecting and preserving the business, property, health, safety and general welfare of City's citizens and City business and operations; preserving peace and good order in the municipality; fostering, establishing and maintaining goodwill and productive working City relationships both within and outside of City, including with Contractors; and in particular as are related, but not limited, to protecting and preserving City's obligations under City's debt contract with the U.S.D.A.; and

WHEREAS, the inadequacy of City's present ordinances, resolutions and regulations creates an emergency and/or an exigency, and/or unusual and unforeseen, conditions that could not have been expected or considered through the use of reasonably diligent thought and attention, that calls for

immediate action and now requires Council to acknowledge, respond to and fulfill its duty to enact and enforce additional, amended or replacement ordinances, resolutions and regulations to better protect and preserve the business, property, health, safety, morals and general welfare of City's citizens and City business and operations; to preserve peace and good order in the municipality; to foster, establish and maintain goodwill and productive working City relationships both within and outside of City, including with Contractors; and in particular as are related, but not limited, to protecting and preserving City's obligations under City's debt contract with the U.S.D.A.; and

WHEREAS, the Council intends specifically by this ordinance to protect and preserve, among other obligations, City's debt contract with the U.S.D.A. and City's business and operations connected to that debt; and

WHEREAS, City acknowledges that this ordinance is the most effective and efficient method of effecting City's goals, duties, responsibilities and intentions as referred to above; and

WHEREAS, in acknowledgment of, response to and fulfillment of Council's duties as recognized herein;

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

SECTION 1. The above recitals are hereby found to be true and correct and are incorporated herein for all purposes.

SECTION 2. As a result of the existence of the conditions requiring this ordinance, it shall be enacted by the unanimous vote of all five (5) voting members of the Council. Any change of or any endeavor to rescind, revoke, repeal, cancel, reverse or abrogate this ordinance, or to affect in any way any penalty imposed by and resulting under this ordinance, whether in whole or in part, shall require the unanimous vote of all five (5) voting members of the Council at a properly-noticed official Council meeting.

SECTION 3. City shall, in every particular, uphold, honor, fulfill and completely perform all valid and enforceable past, present and future contracts and agreements entered into by or on behalf of City by duly authorized City Administrative personnel.

SECTION 4. Contact with Contractors by any City officer, including any member of the City's governing body, is prohibited, except that the following City officers (as defined in LGC, 22.071) shall not be prohibited from such contact: City's Mayor ("City Mayor"); City's Administrator ("City Administrator"); City's Secretary ("City Secretary"); City's Attorney ("City Attorney"); City's Prosecutor ("City Prosecutor"); and such others as these require and choose when mandated by a particular situation.

SECTION 5. Except as specifically stated herein, no Council member has authority to, nor shall, act independently of a Regular, Special or Executive meeting (Texas Gov't Code, Chapter 551), and Council members shall not contact any Contractor in person, or by or through any other person, by use of any contact, form, forum, medium, imprecation or technological device, including but not limited to: message; note; voice; letter; e-mail; petition; post; telephone; text; social media (see, Texas Penal Code, Section 39.02 and Ordinance No. 2020-004); or any other written, verbal, electronic or technological means, manner, device or platform; unless such contact is expressly permitted through a written request and joint written authorization by both the City Mayor and the City Administrator.

SECTION 6. Compliance with and enforcement of this ordinance are authorized pursuant to The City of Hawk Cove, Texas, Ordinance 2020-004 – Ordinance Establishing a Code of Conduct for Elected and Appointed Officials, Section 1, Chapter XXIII.

SECTION 7. This ordinance shall be and is hereby declared to be cumulative with, and not be limited to, all other ordinances, resolutions, policies, sections, subsections, articles, paragraphs, sentences, clauses, phrases or words and procedures relating or pertaining to City Contractors. This ordinance shall not operate to repeal or affect, whether in whole or in part, any other such ordinances, policies and procedures, except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinances, policies and procedures are hereby repealed, but only to the extent of any such conflict.

SECTION 8. If any provision, section, subsection, article, paragraph, sentence, clause, phrase or word of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, or for any reason unenforceable, whether in whole or in part, the validity of the remaining portions of this ordinance or the application to such other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of City in adopting this ordinance that no portion thereof or provision contained herein shall become inoperative or fail by any reason of unconstitutionality or invalidity of any other portion or provision.

SECTION 9. Any Council or governing body member violating any provision of this Ordinance shall be prosecuted for such an offense, and upon conviction shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00). Each separate violation hereof shall be deemed a separate offense, and shall be punished accordingly, provided, however, compliance may be further sought through injunctive relief in the District Court of Hunt County, Texas. In addition to any criminal prosecution, all available and applicable civil remedies shall be pursued against such person or persons.

SECTION 10. This ordinance shall be effective immediately upon its passage.

CONCLUSION

Passed and approved by the City Council of City, this ____ day of _____, 2023.

Darren Evans, Mayor

ATTEST: _____
City Secretary

APPROVED AS TO FORM: _____
City Attorney