

ORDINANCE NUMBER 2023-08

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LAGUNA VISTA, TEXAS, APPROVING THE TERMS OF THE SETTLEMENT AGREEMENT BETWEEN THE CITIES OF BROWNSVILLE, PORT ISABEL, AND LAGUNA VISTA, RESOLVING ALL ANNEXATION AND EXTRATERRITORIAL JURISDICTION AREA DISPUTES BETWEEN THESE PARTIES OUTLINED IN CAUSE NO. 2014-DCL-00815; *CITY OF PORT ISABEL AND TOWN OF LAGUNA VISTA VS. CITY OF BROWNSVILLE*, IN THE 103RD JUDICIAL DISTRICT COURT OF CAMERON COUNTY, TEXAS; APPROVING THE TERMS OF THE AGREED FINAL JUDGMENT ATTACHED TO THE SETTLEMENT AGREEMENT; AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE THE SETTLEMENT AGREEMENT; AUTHORIZING THE TOWN ATTORNEY TO EXECUTE THE SETTLEMENT AGREEMENT AND AGREED FINAL JUDGMENT; ADOPTING THE EXHIBITS ATTACHED HERETO AS OUTLINING THE TOWN OF LAGUNA VISTA'S TERRITORIAL LIMITS AND EXTRATERRITORIAL JURISDICTION THEREBY AMENDING THE OFFICIAL MAP OF THE TOWN OF LAGUNA VISTAS, TEXAS; PROVIDING REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Town of Laguna Vista, Texas (the "Town") is a *Home Rule Municipality* acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Plaintiffs Paul Seales, MG Real Properties, LTD, and Lucilla Barrera, and Intervenors City of Port Isabel and Town of Laguna Vista allege that Brownsville's annexations of 2001 and 2002 were void because of a failure to meet the Texas Open Meetings Act and annexation statutes;

WHEREAS, Laguna Vista alleged its interlocal agreement with Brownsville concerning extraterritorial jurisdiction was invalid and unenforceable;

WHEREAS, Brownsville, Port Isabel, and Laguna Vista each disputed the claim of the other municipality that its annexation and extraterritorial jurisdiction was valid and first in time in the overlapping areas; and

WHEREAS, the Thirteenth Court of Appeals held that Port Isabel and Laguna Vista did not have viable causes of action under the Texas Open Meetings Act yet allowed causes of action concerning the validity of the annexations and the enforceability of the interlocal agreement; and

WHEREAS, Brownsville, Port Isabel, and Laguna Vista were ordered to mediation by order of the trial court entered on April 12, 2022; and

WHEREAS, at mediation held on Monday, February 20, 2023, Brownsville, Port Isabel, and Laguna Vista reached the agreement embodied within the proposed Compromise, Settlement and Mutual Release Agreement (“Settlement Agreement”); and

WHEREAS, the Settlement Agreement is attached hereto as Exhibit No. 1 and incorporated herein for all purposes; and

WHEREAS, under the terms of the proposed Settlement Agreement, Brownsville, Port Isabel, and Laguna Vista have agreed to submit an agreed Final Judgment (attached to the proposed Settlement Agreement) to the trial court; and

WHEREAS, the map attached as Exhibit “A” to the proposed Settlement Agreement and incorporated therein for all purposes depicts the boundaries of the extraterritorial jurisdictions of Brownsville (shown in salmon) and Port Isabel (shown in light blue) and the territorial limits of Brownsville (shown in red) and Port Isabel (shown in blue) within the areas shown in the map and on which Brownsville and Port Isabel have agreed as a result of the mediation; and

WHEREAS, the map attached as Exhibit “B” to the proposed Settlement Agreement and incorporated therein for all purposes depicts the boundaries of the extraterritorial jurisdictions of Brownsville (shown in salmon) and Laguna Vista (shown in orange) and the territorial limits of Brownsville (shown in red) and Port Isabel (shown in sandy brown) within the areas shown in the map and on which Brownsville and Port Isabel have agreed as a result of the mediation; and

WHEREAS, Brownsville, Port Isabel, and Laguna Vista will request the trial court to approve and adopt their proposed settlement agreement reached in mediation embodied in the proposed Settlement Agreement which includes Exhibits “A” and “B” as the Settlement Agreement to be approved and adopted by the trial court; and

WHEREAS, Brownsville, Port Isabel, and Laguna Vista have agreed to exchange and/or release to the extent necessary to effectuate their agreement, in accordance with Section 42.023 of the Texas Local Government Code, any area previously claimed to be within the extraterritorial jurisdiction of the other party and in order to establish the boundaries of the extraterritorial jurisdictions of Brownsville, Port Isabel, and Laguna Vista as depicted and described in Exhibits “A” and “B” attached to the proposed Settlement Agreement; and

WHEREAS, the establishment of the boundaries for Laguna Vista's extraterritorial jurisdiction in the areas formerly in dispute (a) will result in (i) an exchange of areas between Port Isabel and Brownsville, (ii) an acknowledgment that Laguna Vista has adequate land use controls to protect any area exchanged, including any environmental resources in such area, (iii) a logical planning boundary, and (b) does not result in any significant negative fiscal impact on the budget of Laguna Vista or the other parties; and

WHEREAS, Paul Seales, MG Real Properties, LTD, and Lucilla Barrera filed the original pleading in the Litigation; and

WHEREAS, the status of Paul Seales, MG Real Properties, LTD and Lucilla Barrera as a parties in the Litigation is unresolved; and

WHEREAS, notwithstanding Paul Seales, MG Real Properties, LTD and Lucilla Barrera's unresolved status as parties in the Litigation, their status does not affect the terms of the proposed Settlement Agreement between Brownsville, Port Isabel, and Laguna Vista; and

WHEREAS, approval of the terms of the attached proposed Settlement Agreement is in the best interest of the health, safety and general welfare of the citizens of Laguna Vista.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAGUNA VISTA, TEXAS THAT:

Section 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2: Settlement Agreement. The terms of the proposed agreement between Brownsville, Port Isabel, and Laguna Vista resolving the litigation as incorporated in the Settlement Agreement attached as Exhibit No. 1 are hereby approved.

Section 3: Final Judgment. The terms of the proposed agreed Final Judgment attached to the proposed Settlement Agreement are also hereby approved.

Section 4: Authority for Execution. The Mayor and City Manager of the Town of Laguna Vista are hereby authorized to execute the attached Settlement Agreement. The Town Attorney is hereby authorized to execute the attached Settlement Agreement and agreed Final Judgment.

Section 5: Adjustment in Town Map. The Town Council hereby adopts the maps included as Exhibits "A" and "B" to the Settlement agreement as modifying the Town's territorial and extraterritorial jurisdictional boundaries and hereby directs the Town Secretary and *Planning and Redevelopment Director* to update the official records of the Town, copies of which shall be deposited with the County Clerk.

Section 6: Severability. Should any section, subsection, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The Town hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences clauses and phrases be declared unconstitutional or invalid.

Section 7: Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a

prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 8: Open Meetings. That it is hereby found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given, all as required by Section 551.041 of the Texas Government Code.

Section 9: Effective Date. This Ordinance shall become effective upon its second and final reading and passage, and publication as may be required by law.

INTRODUCED and **PASSED** at the First Reading on the 14th day of November, 2023.

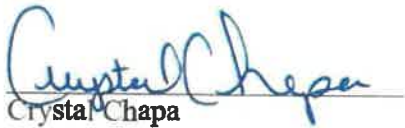
PASSED at the Second and Final Reading and Approved on this the 12th day of December, 2023.

Town of Laguna Vista, Texas



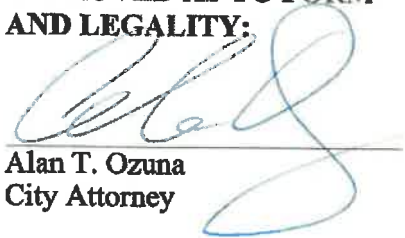
Mike Carter
Mayor

ATTEST:



Crystal Chapa
Town Secretary

**APPROVED AS TO FORM
AND LEGALITY:**



Alan T. Ozuna
City Attorney

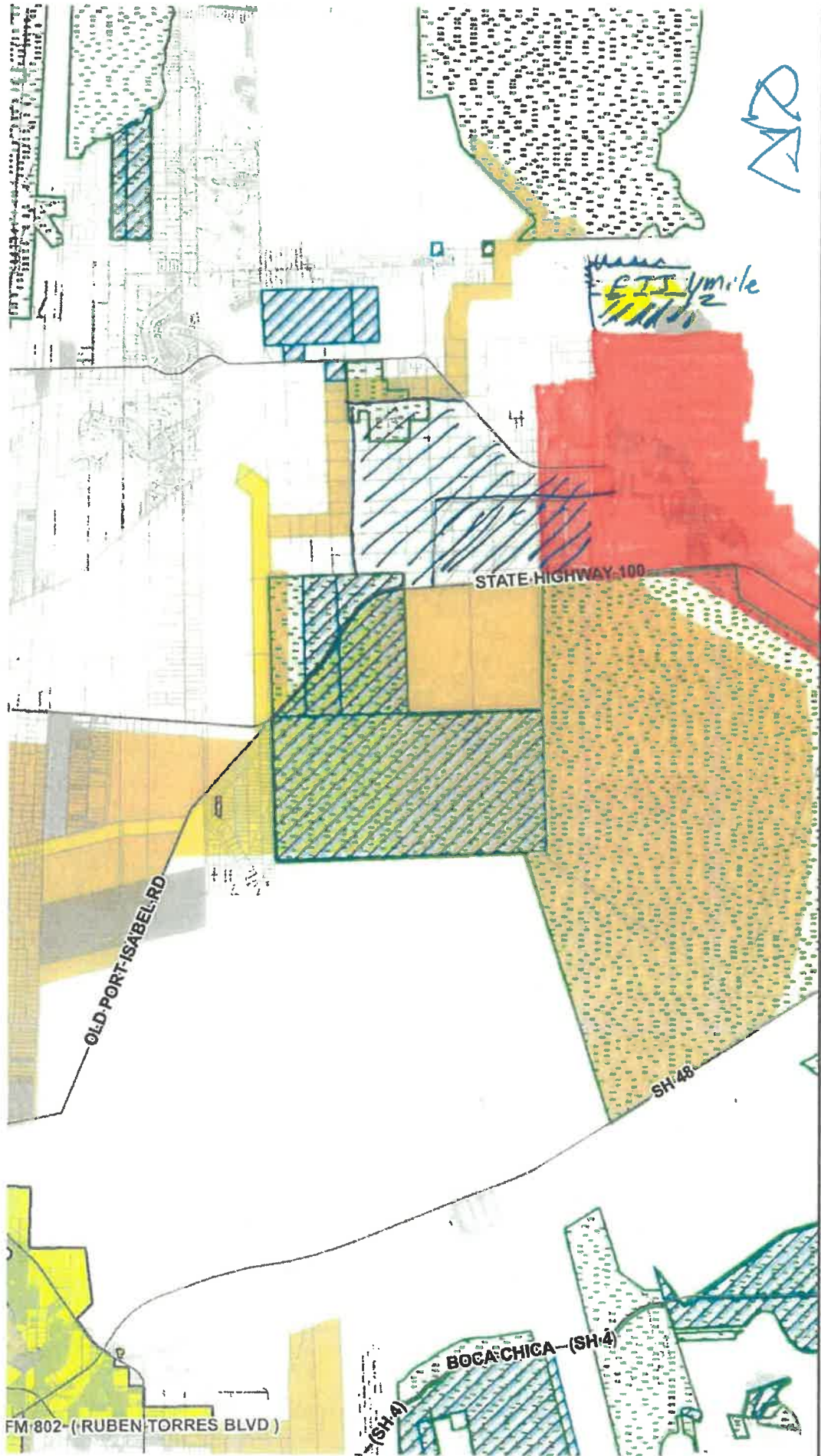
Exhibit 1

Exhibit "A"

Exhibit "B"

Settlement NOU. Exhibit "A"

Concept Map



Laguna Vista



Y-Su Bransville

PAUL SEALES, MG REAL PROPERTIES, §
LTD. AND LUCILLE BARRERA §
Plaintiffs §

IN THE DISTRICT COURT

AND §

CITY OF PORT ISABEL AND §
THE TOWN OF LAGUNA VISTA §

103RD JUDICIAL DISTRICT

Intervenors §

V. §

THE CITY OF BROWNSVILLE, §

CAMERON COUNTY, TEXAS

Defendant §

AGREED JUDGMENT

Came on for consideration an Agreed Motion for Agreed Judgment in the above captioned case. Upon consideration of said motion, the Court finds that Plaintiffs, Paul Seales, MG Real Properties, Ltd. and Lucille Barrera, Intervenors, City of Port Isabel and the Town of Laguna Vista, and Defendant, the City of Brownsville have entered into a compromise and settlement agreement, a copy of which is attached hereto and made a part hereof. Accordingly, the Court is of the opinion that the Agreed Motion for entry of an Agreed Judgment should be in all things granted and sustained, and that Judgment should now be entered in this case. It is therefore,

ORDERED, ADJUDGED and DECREED that Plaintiffs, Paul Seales, MG Real Properties, Ltd. and Lucille Barrera, and Intervenors, City of Port Isabel and the Town of Laguna Vista TAKE NOTHING in this case from Defendant, City of Brownsville and that all of Plaintiff's and Intervenors claims and causes of action asserted in this cause or that could have been asserted in this cause are hereby dismissed with prejudice. It is further,

ORDERED, ADJUDGED and DECREED that Defendant, City of Brownsville, TAKE NOTHING in this case from Plaintiffs, Paul Seales, MG Real Properties, Ltd. and Lucille Barrera, and Intervenors, City of Port Isabel and the Town of Laguna, and Defendant's counterclaims and causes of action asserted in this cause or that could have been asserted in this cause are hereby dismissed with prejudice.

Each party shall bear its own attorneys' fees and court costs.

This is a final order that disposes of all claims and all parties, and this case is dismissed with prejudice in its entirety.

SIGNED this _____ day of _____, 2023.

JUDGE PRESIDING

APPROVED AS TO FORM AND SUBSTANCE:

LARRY MARK POLSKY
State Bar No. 16105500
mossad1947@sbcglobal.net
Attorney for Plaintiffs

/s/ Wm. Andrew Messer
WM. ANDREW MESSER
STATE BAR NO. 13472230
andy@txmunicipallaw.com
Attorney for Defendant
City of Brownsville

JAMES H. HUNTER, JR.
STATE BAR NO. 00784311
jim.hunter@rovstonlaw.com

AGREED JUDGMENT

Attorney for Intervenor
Town of Laguna Vista

GILBERTO HINOJOSA
STATE BAR NO. 09701100
ghinojosa@ghinojosalaw.net
Attorney for Intervenor
City of Port Isabel