To: Honorable Mayor & City Council

From: Michael Kovacs, City Manager

Omar Williams, Assistant to the City Manager

David Overcash, City Attorney

Date: October 29, 2026

Agenda Item & Caption: Discuss, consider, and take any necessary action approving a resolution regarding the City of Fate's continuity of operations

Action Requested: Approve resolution regarding continuity of operations plan

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Party responsible for placing this item on agenda: David Overcash, City Attorney

Background:
This item was placed on the agenda by David Overcash, City Attorney, to consider an resolution addressing continuity of operations and the maintenance of essential City services during potential loss of quorum.

Financial Considerations:
N/A

Supporting Documents:
- Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FATE, TEXAS, PROVIDING FOR CONDITIONAL AND TEMPORARY ADMINISTRATIVE PROCEDURES FOLLOWING THE CANVASS OF THE NOVEMBER 2026 ELECTION, INCLUDING SUSPENSIONS OF CERTAIN COUNCIL REVIEW REQUIREMENTS UNDER CURRENT POLICIES; PROVIDING FOR SAVINGS, REPEAL, AND SEVERABILITY CLAUSES, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Fate, Texas ("City") is a home rule municipality located in Rockwall County, governed by its charter adopted under Article XI, Sec. 5 of the Texas Constitution, which provides the residents with the right to seek removal of seated elected officials through a process of petition and recall election;

WHEREAS, the City Council of the City of Fate, Texas ("City Council") has previously ordered that four measures shall be on the ballot for consideration by the voters of the City on the November 3, 2026 uniform election date, seeking their decision on the question of whether individual serving members of the City Council of the City of Fate should be recalled from ther respective offices, immediately upon canvass of the election results and prior to the expiration of their current terms, arising from petitions presented to the City in accordance with Article 5 of the Charter of the City of Fate, Texas ("Charter");

WHEREAS, if following the canvass of the November 3, 2026 election results it is found that the majority of votes cast on the questions of recall were for the removal of the elected official named on the ballot for that proposition, the Charter specifies that councilmember shall be deemed removed from office and the vacancy shall be filled in accordance with its provisions and state law;

WHEREAS, as the members of the City Council are elected to terms of longer than two years, should the election returns following the November 2026 canvass result in the recall of any seated councilmember having more than one remaining in their term, Art. XI, Sec. 11 of the Texas Constitution prohibits the vacancies from being filled by appointment, and further mandates that a special election be called for such purpose within one hundred and twenty (120) days after such vacancy or vacancies occur;

WHEREAS, these circumstances create some uncertainty as to the number of seated councilmembers who will be qualified and eligible to perform the duties of the City Council following the canvass, and including scenarios where less than four qualified members will be able to assemble and form quorums for regular City business to be conducted until seats have been filled;

WHEREAS, due to the nature and number of the ballot measures on the question of the recall of members of the City Council, it is necessary to prepare for outcomes which will prevent or inhibit the assembly of a quorum to conduct official business, such as ordering elections, for a period of time until any seats vacated by recall results have

been refilled, and the City Council seeks to ensure that vacancies, unanticipated absences from other reasons, or political discord does not disrupt or delay the ability of the City to provide services and implement the previously approved budgets, projects, and policies of the City Council; and

WHEREAS, by this Resolution, it is the intention of the City Council to provide that should it be determined that it is impossible for the City to form a quorum during a time period when action is needed due to vacancies arising from the canvass of the November 2026 election, those policies which would interfere with City operations shall be automatically and immediately suspended, and related temporary measures be implemented simultaneously, to expire at such time when sufficient seats have been refilled;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FATE, TEXAS, THAT:

SECTION 1: City Council positions; Presiding Officers for meetings.

Should there be vacancies in office or other matters arising such that any meeting of the City Council can assemble a quorum, but the Mayor, the designated Mayor Pro Tem, and the designated Deputy Mayor Pro Tem are all absent and unable to preside over the meeting, then the longest-tenured sitting official on the Council shall serve as presiding officer for the meeting, and serve as equivalent to the Mayor for purposes of application of all internal City policies, bylaws, rules of order, and similar administrative matters to the maximum extent permitted by state law. If more than one councilmember forming such a quorum in the absence of the officers be in attendance who have served identical tenures, the attending members of the City Council shall agree among themselves who will serve as presiding officer for the meeting, and if unable to do so, the City Secretary shall select a presiding officer by some randomized means (such as a coin toss).

SECTION 2: Appointments Policy

In the event that vacancies exist on the City Council which prevent the assembly of a quorum to resolve expiring terms of persons appointed to various boards, or should the recall of a seated official require that new appointments be made to hold a seat which can only be occupied by a member of the City Council:

A) All existing discretionary policies imposed by the City Council relating to its own appointments shall be temporarily suspended, in that all of their provisions requiring a minimum number of council votes, advance interviews or meetings held to evaluate candidates prior to appointment actions, and other obstacles which would require at least 4 qualified officeholders to amend will not prevent actions under the special and temporary procedures provided in this resolution.

B) If an election canvass results in the recall of a councilmember who holds any seat of appointment which is exclusively bestowed by the City Council

(Emergency Services Corp., County Planning Consortium, etc.), then the City Manager is authorized to designate one of the remaining officials to immediately assume the duties of such appointment on behalf of the City of Fate as a deemed temporary appointment of the City Council, until such time as a suitable quorum of the City Council can assemble for action to make a permanent replacement for the recalled member.

SECTION 3. Planning approvals.

A. **FOR PLATS ONLY:** As the approval of a plat instrument by the City Council is a ministerial act under Texas law, which does not involve any meaningful opportunity for the exercise of the discretionary authority of elected officials, during any period where it is not possible to assemble a quorum of the City Council to review plats as provided by the Fate Code, all final plats which (i) have been reviewed and approved by the Fate Planning & Zoning Commission without conditions, or (ii) which are conditionally approved subject to fulfillment of certain requirements enumerated by the commission; or (iii) are denied as presented for articulable grounds to be delineated in writing, that same plat shall be deemed to have received the equivalent City Council action, effective on the same date as the P&Z's action approved on that same date, for purposes of final action under Sec. 36-2.2(f) of the Fate Code and other city ordinances calling for council action on plat submissions.

B. **FOR ACCEPTANCE OF EASEMENT DEDICATIONS AND OTHER DONATIONS OF LAND:** During any period where it is not possible to assemble a quorum of the City Council, by this resolution the the City Council authorizes the City Manager's designee to execute documents necessary to accept dedications of property, public infrastructure, and easements as necessary to avoid delays or disruptions of public projects; provided, however, that these materials shall not become the property of the City or be recorded in the county deed records until such conveyances have been ratified, and provided an effective date of acceptance, by the City Council once a quorum assembles.

C. **FOR ACCEPTANCE OF ETJ CONTINUATION AGREEMENTS AND SERVICE PLANS:** During any period where it is not possible to assemble a quorum of the City Council, by this resolution the the City Council authorizes the City Manager's designee to execute documents necessary to memorialize and finalize the acceptance of the City's offered delayed annexation/ETJ continuation agreements and associated service plans for properties that are the subject of previous annexation ordinances, provided however that all record owners of the property must execute copies and deliver them to the City, in form approved by the City Attorney, prior to the running of any deadlines to enter into such agreement specified in the corresponding annexation ordinance. *Note: this does not provide any authority for City staff to enter into such agreements for properties which have not been subject to prior annexation ordinances adopted by the City Council.*

SECTION 4. Procurement, Purchasing.

All provisions of the City of Fate's current purchasing policies, resolutions, and other directives of the City Council shall be modified as follows during time periods where vacanices on the City Council render it impossible to assemble a quorum:

(a) For contracts for expenditures which have already received express approval by prior vote of the City Council, even if outside of budgeted line items, shall be deemed authorized for execution by the City Manager on behalf of the City and the Council further authorizes the execution of all necessary additional documents and agreements necessary to carry forward those contracts or purchases for purposes of Article 6, Sec. 6.11(2) of the Fate Code.[1] The City Manager shall them to the City Council for ratification once a quorum is again available.

(b) All provisions calling for City Council ratification or approval of purchasing or contracting items in the City's purchasing policies up to one hundred thousand dollars ($100,000 dollars, the standard statutory level where competitive bidding typically applies), including without limitation Ord. 1515 and Resolution R-2025-074, are hereby deemed provisionally approved if they directly correspond to line items approved in the current budget. The City Manager may execute documents necessary to carry forward the budgeted items and present them to the City Council for ratification once a quorum is again available.

SECTION 5. Savings, Severability, and Repealing Clauses.
Should any word, sentence, paragraph, subdivision, clause, phrase or section of this resolution be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said resolution, which shall remain in full force and effect. Any and all prior resolutions or lesser enactments of the City are repealed to the extent of any conflict with this resolution.

SECTION __. Additional findings.
It is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this resolution, wa given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION __. Effective Date.

This resolution shall take effect from and after its passage and approval, provided however that should the final canvass of all of the November 3, 2026 election measures

[1] The sole exception to this provision (a) shall be any and all contracts or expenditures relating to Flock Safety cameras which have not been expressly approved by City Council vote, unless necessary to comply with the City's contractual obligations, court order, or direction from a higher agency of appropriate jurisdiction.

result in there being sufficient qualified officeholders to assemble a quorum, then this resolution shall be dormant and of no effect.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FATE, TEXAS on this ___ day of _____, 2026.

APPROVED:

_____
Andrew Greenberg, Mayor

ATTEST:

_____
Victoria Raduechel, TRMC
City Secretary

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