IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

MARA HOLDINGS, INC.; DOES 1-8,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
HOOD COUNTY, TEXAS; County Judge RON MASSINGILL in his official capacity; County Attorney MATT MILLS in his official capacity; and Hood County Elections Administrator STEPHANIE COOPER in her official capacity,	§	**Civil Action No. 4:25-cv-1202**
	§	
Defendants.	§	

COMPLAINT FOR INJUNCTIVE RELIEF
AND DECLARATORY JUDGMENT

Plaintiffs MARA Holdings, Inc. ("MARA") and DOES 1-8 file this Complaint against the following Defendants: Hood County, Texas;[1] Ron Massingill, in his official capacity as County Judge of Hood County, Texas ("Judge Massingill"); Matthew "Matt" Mills, in his official capacity as County Attorney of Hood County ("County Attorney Mills"); and Stephanie Cooper in her official capacity as Elections Administrator.[2]

[1] *See* Hood County Judge, Hood County, TX, https://hoodcounty.texas.gov/courts/county_judge/index.php (last visited Oct. 22, 2025) ("The County Judge is the most visible official in county government. Often thought of as the county's chief executive officer...").
[2] *See* Elections Administration, Hood County, TX, https://hoodcounty.texas.gov/departments/elections_administration/index.php (last visited Oct. 22, 2025).

INTRODUCTION

> "The courts are open for a filing for an injunction, but the county isn't going to invalidate the petition at this time."
>
> – Hood County Attorney Matt Mills (Oct. 3, 2025)

A. Hood County and its Officials Use Illegal Conduct to Get the Municipal Incorporation Issue onto Ballot.

1. This case is about an intentional and unconstitutional use of local government authority to favor a small group of citizens and violate the constitutional rights of others.

2. A small group of residents have sued MARA twice for private nuisance seeking a permanent injunction and monetary damages against its business in Hood County.

3. The same group also came up with the idea of incorporating the area around MARA's lawful operations to gain power to tax and regulate it out of business.

4. They drew up an area that included MARA and enough residents to ask for incorporation and called it "Mitchell Bend." There has been no such subdivision or town that included MARA in the past.

5. Defendants, and other Hood County Officials, kept the effort secret to avoid public discussion or opposition.

6. To get the incorporation issue on the November 4, 2025, election ballot, Defendants knowingly violated a variety of state law prerequisites for municipal incorporation.

7. Putting an issue on a ballot in violation of state law has created extraordinary stress on the community.

8. Proponents of incorporation are placing tremendous pressure on others to vote in their favor.

9. Some residents have complained of economic threats.

10. The county law enforcement official for this area has publicly declared that "loud mouth" residents who do not support the initiative may "face consequences." Others have claimed to publicly shame those who disagree with them.

11. Defendants' constitutional violations fall into two categories.

12. First, Defendants acted *ultra vires* in knowing violation and disregard of Texas statutes governing the process of municipal incorporation. This conduct resulted in an issue being illegally placed on a ballot for an election on November 4, 2025.

13. Second, Defendants secretly colluded with a few residents to put them in a position to gain regulatory power over the Plaintiffs.

14. This conduct deprived Plaintiffs of their Federal Constitutional rights to Equal Protection and Due Process of law.

15. MARA and the Doe plaintiffs have no choice but to file this Complaint, requesting equitable relief, including a Temporary Restraining Order, to stop the illegal November 4, municipal incorporation vote in Hood County.

16. Plaintiffs face irreparable harm if they are put in a position of having to challenge results of a sham election that should never take place.

B. Hood County and its Officials Are Acting in Violation of State Law on Formation of Municipalities.

17. Defendants routinely ignored or intentionally violated Texas statutory prerequisites for getting a municipal incorporation question onto a ballot for public vote. They followed nothing but an "ends justify means" mentality.

18. Municipal incorporations in Texas are governed by Title 2, Subtitle A of the Texas Local Government Code, which outlines the organization and types of municipal governments.

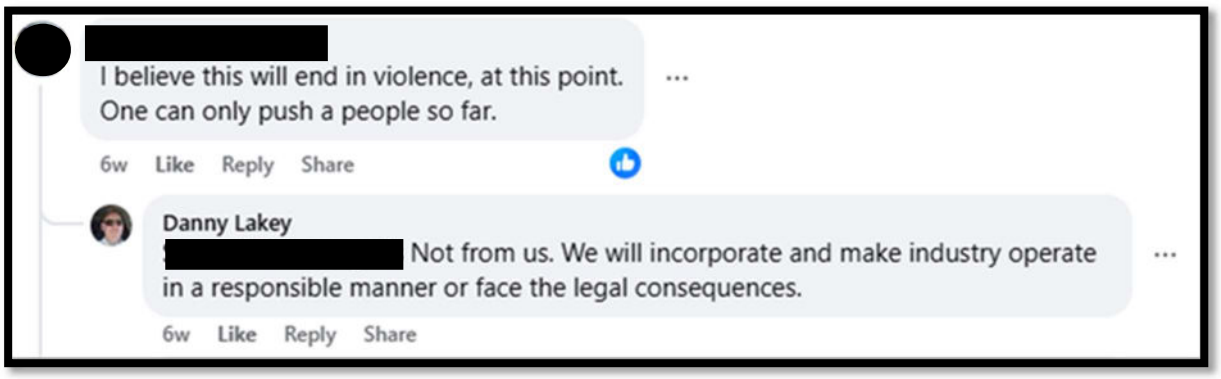
19. The process for citizens to follow when they wish to incorporate their town or community into a municipality is further specified in Texas Local Government Code. *See* §§ 7.001, *et seq.* (Type B, General-Law Municipality); §§ 8.001, *et seq.* (Type C, General-Law Municipality).[3]

20. The proposed area of incorporation in this case was drawn just to encircle the MARA facility and however many residents the organizers needed for their Application of Incorporation.

21. Defendants knew, or intentionally disregarded the fact, that the proposed ad hoc area did not qualify to be considered for incorporation under Section 7.001.

22. Defendants knew there was no proper municipal purpose for the incorporation; it was being created only to regulate and try to close the MARA facility.

23. The primary incorporation effort organizer, Daniel Lakey, admitted that the only purpose of the proposed incorporation was to control industry, recently stating "What we want to do is, No. 1, put in some noise regulations."[4] He also posted on social media:[5]



[3] A voting item on the November 4, 2025, ballot (the "Ballot") is the proposed incorporation of "Mitchell Bend" as a Type B municipality under Chapter 7 of the Texas Local Government Code despite the submitted Application proposing the incorporation of a Type C municipality under Chapter 8.

[4] *See* Elizabeth Campbell, *Hood County Voters Divided Over Forming a City to Regulate Industrial Noise*, Fort Worth Star-Telegram (Oct. 21, 2025), https://www.star-telegram.com/news/local/article312496052.html

[5] **Exhibit 1** (Daniel Lakey's Facebook Post about purpose of incorporation effort [Sept. 5, 2025]).

24. Mr. Lakey admitted that the purpose of the incorporation effort is to fight against "billion-dollar companies [from] coming in."[6]

25. Not only was the area never eligible to apply for incorporation, at the time the organizers submitted an Application for Incorporation[7] to the Defendants, it was invalid on its face under Section 7.002.

26. Three of the most obvious defects in the Application include: (1) it does not "state the proposed boundaries"; (2) it proposes not one, but two different names, "Mitchell Bend" and "Constitution City"; and (3) it was not "accompanied by a plat of the proposed municipality."

27. The Emails[8] below reveal that in Defendants' unwavering mission to control MARA, they lost all perspective on their legal and constitutional duties.

28. County Attorney Mills and Assistant County Attorney Jay Quine were engaged in a concerted effort to push through the incorporation effort, even exerting pressure on Judge Massingill to sign the order, assuring him it was proper, while privately, they admitted there were flaws in the Application.

29. When Judge Massingill's assistant told Mills and Quine that Massingill wanted an answer on all the problems with the Application, other than with signatures, their response was that they, and Stephanie Cooper, "signed off" on the petition.[9]

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[6] *See* August 12, 2025 Hood County Commissioners' Court, YOUTUBE, at 28:25-28:58 (August 12, 2025), https://www.youtube.com/watch?v=XC_03RSjfkc.

[7] Application for Incorporation of Mitchell Bend, Hood County, Texas (Aug. 12, 2025) (unpublished document) (on file with Hood County), attached as **Exhibit 2**.

[8] Plaintiffs received Emails from an Open Records Request beginning approximately October 2, 2025, and prepared this Complaint and an Application for a TRO once it had an opportunity to review the emails and learn the extent of Defendants' misconduct.

[9] Emails between Hood County Court Administrator Beth Stanley, County Attorney Mills, Assistant County Attorney Quine, and Elections Administrator Cooper (Aug. 12, 2025), attached as **Exhibit 3**.

30. In reality, Cooper had specifically stated that she could not attest to any part of the Application other than the signatures.[10]

31. Despite telling the County Judge that he had "signed off" on the Application, Mills admitted to others he did not have the time or resources to confirm the accuracy and representations made in the Application.

32. Communications indicate that Mills and his assistant were extremely concerned with making sure that the Application was approved "quickly" to get the incorporation question on the November ballot, exclaiming "time is of the essence!"

33. While Mills and Defendants made it their priority to help the incorporation proponents meet the deadline, they did not make it a priority to check the Application for legal accuracy.

34. When apprised that the Application was inaccurate, they nonetheless pushed County Judge Massingill to sign an illegal Order.[11]

35. They then sent the illegal Order to Defendant Cooper, Hood County Elections Supervisor, to have the issue put on the ballot.

36. Yet, what Defendant Cooper put on the ballot was not what was in the signed Order.

37. Defendant Mills' only response when confronted with all the defects in the process, Application, and Order was "If Marathon wants to sue over it, the courts are open."[12]

38. Mills' attitude extends far beyond just MARA; this attitude reaches *any* other Hood County Precinct 2 citizen who is not in favor of incorporation.

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[10] Email from Elections Administrator Cooper to Melissa Welborn, Hood County Human Resources with County Attorney Mills cc'd (Aug. 12, 2025 4:42 PM CDT), attached as **Exhibit 4**, saying she couldn't attest to any part of application but signatures.

[11] **Exhibit 5** (Order signed by County Judge Massingill on August 13, 2025).

[12] Email from Matt Mills, Hood County Attorney, to his colleagues: Beth Stanley, Hood County Court Administrator; Jay Quine, Assistant Hood County Attorney; and Stephanie Cooper, Hood County Elections Administrator (Aug. 14, 2025, 4:37:34 PM CDT), attached as **Exhibit 6**.

39. Having an election is not a fair outcome when it was illegal to put the issue on the ballot in the first place.

40. By suggesting that MARA must turn to the courts, Mills concedes that the purpose of the proposed incorporation was always to control and punish MARA, which is not a legitimate municipal purpose under the statute. *See* Tex. Loc. Gov't Code § 7.002.

C. Hood County and its Officials Collude with Proponents of Municipal Incorporations While Excluding Other Residents Affected.

41. Defendants used their power in County government to allow a small group to get into a position to assert government power over other citizens by creating their own municipality.

42. Defendants communicated with and assisted a small group of citizens while actively trying to conceal their conduct from others who would be impacted by their conduct, including Plaintiffs.

43. Emails recently produced by Hood County reveal the pattern of coordination by Defendants and other Hood County officials to work secretly with a few vocal residents to incorporate the area around the MARA facility with the sole purpose of trying to regulate it out of business.

44. Mills acknowledged that Defendants were violating state law by allowing an election based on a defective Application for Incorporation.

45. Mills speculated in emails to colleagues that, if caught, a court might forgive them and still allow an election.

46. Mills openly acknowledged that the purpose of the effort was to regulate MARA and told MARA, specifically, that the only way to stop them was with an injunction.

47. Mills' vendetta against MARA begins in early 2023, when he started dealing with issues involving the prior operator of the facility MARA eventually bought.

48. In 2023, Mills and Hood County Commissioner for Precinct 2, Nanette Samuelson discussed receiving complaints of excessive noise from the facility run by a prior company.

49. At that time, all mining units were cooled by fans, and there were no apparent efforts to prevent any sound from traveling into the surrounding community.

50. Both Samuelsson, and Precinct 2 Constable John Shirley, were running for re-election in 2024, and made campaign issues of alleged problems with the crypto-mining facility.

51. Since January 2024, when MARA acquired the equipment and leased the land, it has spent millions to address any issues with excessive sound. It installed a 24-foot acoustical wall between the facilities and the neighbors, it converted 70% of the units from fan-cooling to a liquid immersion cooling technology, and it moved the small portion of fan cooled equipment that was left into the more remote areas of the land away from residential homes.

52. Mills stated that he, and Constable Shirley, would "do their best with citations" to combat MARA.

53. In July of 2024, Mills and Samuelson were involved in locating and hiring a county-funded sound study they thought would support their prosecutions of MARA.

54. The study Hood County commissioned came back finding no excessive sound and no measurable vibrations.

55. Mills expressed disappointment in the findings: "Interesting, Looks Like we are done now."[13]

56. Mills encouraged citizens to sue MARA civilly, and suggested how they should go about trying to find a private attorney.

[13] Email from County Attorney Matt Mills to Assistant County Attorney Allen Quine (Nov. 4, 2024 3:51 p.m. CDT), attached as **Exhibit 7**.

57. In October 2024, Earthjustice filed a lawsuit against MARA on behalf of five plaintiffs who had organized as "Citizens Concerned about Wolf Hollow" or "CCAWH." This group sued MARA for private nuisance demanding an unspecified "permanent injunction."

58. Danny Lakey was one of the five members. He is also the person who signed and submitted the Second Application for Incorporation that is subject to this suit and has nominated himself as the new mayor of the proposed municipality.

59. Earthjustice is the former legal arm of the Sierra Club. It is philosophically opposed to Crypto mining. The Earthjustice website displays the September 23, 2022, paper:[14]

> "The Environmental Impacts of Cryptomining," Presented by Earthjustice's Clean Energy Program[15] in partnership with Sierra Club's Environmental Law Program.[16] The guidebook—"The Energy Bomb: How Proof-of-Work Cryptocurrency Mining Worsens the Climate Crisis and Harms Communities Now"—is the first to comprehensively document the explosive growth of cryptocurrency mining in the United States and examine how this industry is impacting utilities, energy systems, emissions, communities and ratepayers.

60. The attitude of adamant opposition to "all-things crypto" appears to underlie at least some of the hostility toward MARA that the Defendants and a few residents have.

61. When the first effort to incorporate arose, Defendants appear to have assisted in getting an order for an election signed and participated in keeping it quiet.

62. There was no public notice of an Application to Incorporate being submitted, nor was there public notice when an Order approving the Application was signed.

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[14] *The Environmental Impacts of Cryptomining*, Earthjustice (Sept. 23, 2022), https://earthjustice.org/feature/cryptocurrency-mining-environmental-impacts.
[15] *See Clean Energy Program*, Earthjustice, https://earthjustice.org/office/clean-energy (last visited Oct. 26, 2025).
[16] *See Environmental Law Program*, Sierra Club, https://www.sierraclub.org/environmental-law (last visited Oct. 26, 2025).

63. Defendants showed no interest in getting the views of anyone else affected by the proposed municipal incorporation, including MARA and other residents who would be forced to vote on the question.

64. MARA found out about the first Order for a vote on incorporation by happenstance.

65. A quick investigation revealed obvious defects in the Application, including insufficient number of qualified signatures.

66. County Judge Massingill was presented with questions about the legitimacy of the first Application for Incorporation. Satisfied that it was based on erroneous information, he vacated that Order in mid-August, 2025.

67. There was an August 18, 2025, deadline for Orders to place any issue on the November 4, 2025, ballot (the "Ballot").[17]

68. Without notice to any of their constituents, including Plaintiffs, Defendants worked with the incorporation proponents to help them get their materials together and filed in the right place on time.

69. Defendants also communicated with the incorporation proponents to take any mention of the incorporation effort off the agenda for a Commissioners Court hearing on August 12, 2025.

70. In their haste to get the incorporation issue on the ballot, Defendants willingly ignored the statutory prerequisites to consider an Application for Incorporation. Tex. Loc. Gov't Code § 7.001.[18]

71. For example, only a preexisting town or village may apply to incorporate.

[17] A ballot primarily refers to a form used to cast confidential votes in an election, either for a candidate, issue or proposition.

[18] Hereinafter, citations to "Section [#]" refer to relevant provisions of the Texas Local Government Code, unless otherwise noted.

72. Defendants made no effort to determine whether there was any town, village, or subdivision that included the MARA facility before signing the Order.

73. Moreover, there has never been a town of "Mitchell Bend" resembling the area reflected in the rough outline included in the Application for Incorporation.

74. Hood County's own website contradicts the proposition that there was any such area to incorporate.

75. The Hood County website lists one city, Granbury, and 20 subdivisions in Precinct 2. There is no "Mitchell Bend" for Precinct 2.

76. Instead of an established town, the proponents seek to incorporate a satellite-shaped figure—essentially, a rectangle on two ends connected by an almost mile-long road (but apparently not the area on either side of the road).

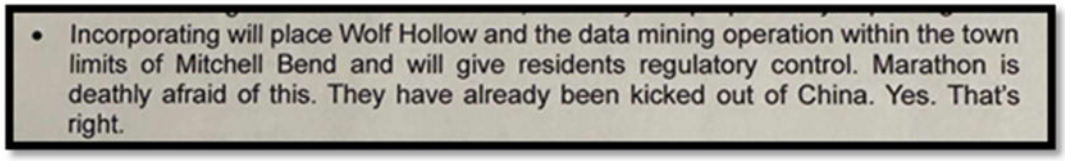
77. The obvious purpose of the illogical gerrymandering was to draw a shape that contained MARA, plus enough residents and the right amount of land to be eligible for incorporation.

78. In fact, one end of the "satellite" is a block of houses that is listed on the Hood County website as the development of Mid-haven.

79. Two of the Doe plaintiffs live in Mid-haven. They have never been bothered by any noise from MARA. Rather, they have been annoyed by the noise from aggressive proponents of municipal incorporation.

80. There was never a proper municipal purpose, only a goal of imposing more governmental control over MARA and the other plaintiffs.

81. Defendants admitted the purpose of incorporation was to regulate MARA. One of the flyers distributed at the most recent Townhall describes incorporating as a "weapon" to gain "regulatory control" over MARA.[19]



82. Defendants manipulated the agenda for public meeting of the Commissioners Court to remove the incorporation topic.

83. Despite the topic of incorporation being removed from the agenda, Defendants allowed the proponents to appear and argue.

84. When other citizens tried to discuss the incorporation issue, they were shut down and told the topic was not on the agenda.

85. Defendants knew the Application defective and that they were ignoring, defying, and violating state law by putting the incorporation issue on the November 4, 2025, ballot for a public election.

D. Hood County and its Officials Violate Plaintiffs' Constitutional Rights By Proceeding with Holding a Sham Election on a Contentious Issue

86. The Doe Plaintiffs are being forced to participate in a sham election in violation of their constitutional rights.

87. The Doe Plaintiffs face severe distress as they are pressured to vote for incorporation.

88. Residents not in support of incorporation are being intimidated.

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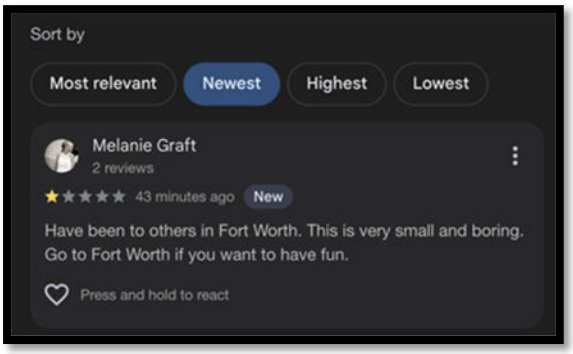
[19] *See* "Incorporation of the Town of Mitchell Bend" Flyer, which was distributed to residents at the Townhall meeting on October 12, 2025, attached as **Exhibit 8** ["Townhall Flyer"].

89. Defendants' wrongful and lawless actions have caused considerable consternation in the community as the small—albeit very vocal—group of residents supporting incorporation seek to influence or even intimidate others into supporting them.

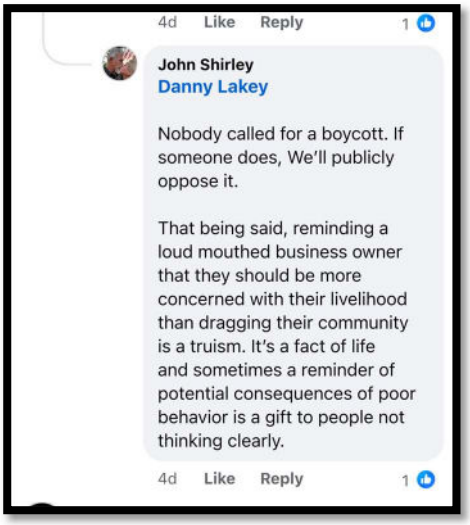
90. One proponent has called for identifying and shaming anyone in opposition.

91. When one resident began asking questions critical of the incorporation effort, her local business quickly became a target of economic intimidation. Social media posts threatened the business, and Hood County District Clerk Melanie Graft compounded the harm by posting a one-star Google review and negative comment about the business, despite never having visited it, as shown below.[20] The business maintains detailed booking records and photographs every customer group, confirming that Ms. Graft has never been there.



92. Lakey posted a comment that the incorporation effort was not calling for economic boycotts of those who will not publicly support incorporation. However, the apparent enforcer in the Incorporation group, Hood County Precinct 2 Constable John Shirley, posted: "reminding a loud-mouthed business owner that they should be more concerned with their livelihood than dragging their community is a truism. It's a fact of life and sometimes a reminder of the potential consequences of poor behavior is a gift to people not thinking clearly."[21]

[20] **Exhibit 9** (Hood County District Clerk Melanie Graft's Google Review).
[21] **Exhibit 10** (Constable Shirley's Facebook Post).



93. Having the District Clerk post negative reviews to cause economic harm and to intimidate the owner of a local business and a law enforcement officer publicly threaten "potential consequences" for those who do not publicly support the incorporation effort is a continuation of the lawless behavior of Hood County officials to favor one group of residents over others.

94. Upon information and belief, early voting started October 20, 2025.

95. Contrary to longstanding American tenets, proponents of incorporation have argued that MARA has no constitutional rights as an out-of-state company, and it may be regulated and taxed with no constitutional protections that other citizens enjoy.[22]

JURISDICTION AND VENUE

96. This Court has subject matter and personal jurisdiction over the parties. Jurisdiction of this Court in invoked pursuant to 28 U.S.C § 1331 and 42 U.S.C. §§ 1983, 1985.

97. Defendants are a Texas County and its officials, who are sued in their official capacities as Hood County Judge and Elections Coordinator. These are the appropriate County officials to enjoin from further election-related illegal misconduct.

[22] *See, e.g.,* HOOD COUNTY, *August 12, 2025 Hood County Commissioners' Court*, at 24:00-34:05 (YouTube, Aug. 12, 2025), https://www.youtube.com/watch?v=XC_03RSjfkc ["Lakey Remarks"].

98. Venue is proper under 28 U.S.C. § 1391 before this Court because Defendants reside within this jurisdiction and because all or a substantial part of the events which give rise to this Court action arose in this district.

PARTIES

A. Plaintiffs

99. Plaintiff MARA is a corporation incorporated under the laws of Nevada with its principal place of business in Hallandale Beach, Florida.

100. MARA is a veteran-run American company that employs people in Hood County, pays taxes, and contributes to the community.

101. MARA acquired a data center in Hood County in January 2024.

102. This data center is located on a leased portion of a pre-existing industrial site that had been operating as a power plant since approximately 2003.[23]

103. The Doe Plaintiffs are citizens of Hood County who reside in the area proposed for incorporation. They have standing to sue because their constitutional rights under 42 U.S.C. §§ 1983, 1985, as well as the Fourteenth and First Amendments to the United States Constitution have been violated.

104. MARA has standing to bring this suit because it does business in Hood County, the proposed city was drawn with the specific intent to include MARA's business, and the avowed purpose of the incorporation is to target MARA with disparate treatment intended to put it out of business. As a corporation, MARA has the same constitutional rights of equal protection and due process as an individual.

[23] *Empowering Granbury*, MARA Granbury, https://www.maragranbury.com (last visited Oct. 25, 2025).

B. Defendants

105. Defendant Judge Ron Massingill is the County Judge of Hood County, Texas, and is sued in his capacity as County Judge, or chief executive officer of Hood County, responsible for overseeing county-wide elections.[24] Judge Massingill can be served at 100 East Pearl Street, Granbury, Texas, 76048.

106. Defendant Stephanie Cooper is sued in her official capacity as Hood County Elections Administrator and may be served at 100 East Pearl Street, Granbury, Texas, 76048.[25]

TEXAS LAW ON MUNICIPAL INCORPORATION

107. The Texas Local Government Code governs the prerequisites placing the question of municipal incorporation on an election ballot. Requirements differ depending upon the type of municipality being formed: A, B or C. *See* Tex. Loc. Gov't Code §§ 7.002, *et seq*. (type B); §§ 8.002, *et seq*. (type C).

108. Section 7.001 of the Texas Local Government Code, titled "Authority to Incorporate as Type B General Law Municipality," dictates the requirements for a "community" to hold an election to incorporate.

109. Before a "community" is eligible to incorporate it must satisfy three requirements: (1) constitute an unincorporated town or village; (2) contain between 201 and 9,999 inhabitants; and (3) meet the territorial requirements prescribed by Section 5.901. *Id*.

110. If, and only if, the conditions of Section 7.001 are met, then Section 7.002 governs the "Application to Incorporate." Section 7.002 provides: "(a) [t]he residents of a community may initiate an attempt to incorporate the community by filing with the county judge of the county in

[24] *See* Hood County Judge, *supra* note 1.
[25] *See* Elections Administration, *supra* note 2.

which the community is located an application to incorporate signed by at least 50 qualified voters who are residents of the community;" "(b) [t]he application must state the proposed boundaries and name the municipality, and it must be accompanied by a plat of the proposed municipality that contains only the territory to be used strictly for municipal purposes."

111. According to Section 7.003, titled "Election Orders," "if satisfactory proof is made that a community that has filed an application to incorporate under this chapter containing the required number of inhabitants, the county judge shall order an incorporation election to be held on a specified date and at a designated place in the community."

112. Under Section 7.007, "ORDER OF INCORPORATION," if a majority of votes favor incorporation, the County Judge must record the incorporation in the Commissioners Court records. As stated in the statute: "The judge shall include the boundaries of the municipality in the entry. The incorporation of the community as a municipality is effective on the date the entry is made."

113. However, contrary to what the Ballot reflects, the Application was actually filed under Chapter 8 of the Texas Local Government Code, governing Type C municipalities.

114. A Type C municipality must have a Commission form of government "the residents of a community may initiate an attempt to incorporate by filing a written petition signed by at least 10% of the qualified voters of the community."

115. Chapter 8 is only relevant here as it is the Chapter wrongly referred to in several instruments including the Order authorizing an Election.

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FACTS

A. There Was No Authority to Consider An Application For Incorporation Under Section 7.001 Of The Texas Local Government Code.

116. Section 7.001 provides that a community may incorporate as a Type B general-law municipality if it satisfies the following criteria: (1) it constitutes an unincorporated town or village; (2) it has a population between 201 and 9,999 inhabitants; and (3) it meets the territorial requirements set forth in Section 5.901 of the Texas Local Government Code.

117. Section 5.901 outlines the territorial requirements for incorporation as a general-law municipality and states that "a community with fewer than 2,000 inhabitants must not exceed two square miles of surface area" to be eligible for incorporation into a general-law municipality. *See* Tex. Loc. Gov't Code § 5.901(1).

118. In this case, to incorporate around MARA, the proponents of incorporation had to draw an area that contained greater than or equal to 201 people in less than two square miles of surface area.

119. Because there was no preexisting community that included the MARA facility, the proponents had to draw something with the prerequisite population in the appropriate land size.

120. Because there was no town of Mitchell Bend satisfying the prerequisites of Section 7.001, there was no authority for the proposed area to incorporate.

121. Further, because Defendants ignored the statutory authority to consider an Application for Incorporation, they acted above the law and without legal authority.

122. An area of proposed incorporation must "constitute an unincorporated town or village." *See* Tex. Loc. Gov't Code § 7.001(1). "The purpose of the incorporation statutes is not to create towns and villages but to allow those already in existence to incorporate. Incorporation

contemplates the existence of an actual village, town or city." *State ex rel. Needham v. Wilbanks*, 595 S.W.2d 849, 851 (Tex. 1980).

123. The area vaguely outlined in the Application is merely two rural subdivisions of homes on either side of the MARA and Constellation facility. Part of the proposed city is nothing but a road nearly a mile long.

124. There is no evidence of business institutions typical of towns and villages. *See Rogers v. Raines*, 512 S.W.2nd 729–30 (Tex App.—Tyler 1974, writ ref'd n.r.e) (a village is "an assembly of houses less than a city but nevertheless urban or semi-urban in its character, having a density of population greater than can usually be found in rural districts" and has "compact center or nucleus of population around which a town has developed"); *Harang v. State ex rel. City of West Columbia*, 466 S.W.2d 8, 13 (Tex. App—Austin 2005 pet. denied) (noting that to constitute a town or village and area should have "an urban character as distinguished for a rural character," "[t]here should be some degree of unity and proximity between habitations so assembled… [and] … the area… should be susceptible of receiving some municipal services.").

125. Defendants violated Section 7.001(1) because the area proposed to be incorporated was not an established town, village or community.

126. In fact, there was no established community known as "Mitchell Bend" to be incorporated. Defendants could have discerned as much by merely referring to their own County Commissioner of Precinct 2 Nannette Samuelson's Hood County website.[26]

127. The proposed area of incorporation lies within Precinct 2. The Hood County website lists the "cities and towns," as well as the "subdivisions," in that precinct. *Id.* There is one

[26] *See* **Exhibit 11** (screenshot of Hood County website listing recognized Cities, Towns & Subdivisions in Precinct 2).

"City or Town" (Granbury), and there are 20 subdivisions. *Id*. There is no "Mitchell Bend" listed for Precinct 2. *Id*.

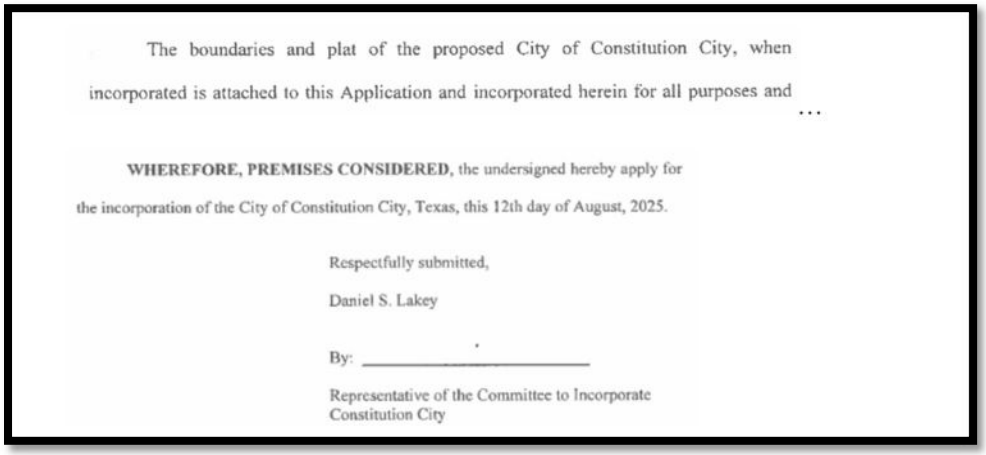
128. The area to be incorporated was a gerrymandered oddity, with a large trapezoid-looking area connected by just a road to a rectangular area. For roughly one mile, the "city" would be just a road, excluding land to either side of it.

B. The Application for Incorporation Violated Section 7.002 of the Texas Local Government Code on its Face.

129. Even if here had been authority to consider an Application for Incorporation the one submitted fails the most basic statutory prerequisite in Section 7.002 (b): "a" name. Instead, it uses two.

130. Although the heading of the Application for Incorporation says, "Mitchell Bend, Texas," the body of the Application states, several times, that the city to be incorporated is "Constitution City, Texas."[27]

131. The prayer for relief is "[w]herefore, premises considered, the undersigned hereby apply for the incorporation of the City of Constitution City, Texas, this 12th day of August, 2025." *Id*.



The boundaries and plat of the proposed City of Constitution City, when incorporated is attached to this Application and incorporated herein for all purposes and ...

WHEREFORE, PREMISES CONSIDERED, the undersigned hereby apply for the incorporation of the City of Constitution City, Texas, this 12th day of August, 2025.

Respectfully submitted,

Daniel S. Lakey

By: _____

Representative of the Committee to Incorporate Constitution City

[27] *See* **Exhibit 2** (Application).

132. If Matt Mills, or Judge Massingill, had given the Application even a cursory glance, they would likely have seen that it offered conflicting names for the proposed city. This abject failure to give the Application any scrutiny, was worse than a rubber stamp. It was an abdication of their governmental duties to certain residents who agreed with their personal views. Giving governmental power to a select few violates the equal protection rights of the rest of the electorate and affected citizens.

133. As noted briefly above, the Application was defective on its face for several reasons.

134. One was that it failed to "state the proposed boundaries." Instead, it appears that there was some attempt of incorporation by reference with a variety of unauthenticated, unexplained writings.

135. There is an affidavit attached to the Application with Daniel Lakey's name on it, but it is not signed or notarized; the unsigned application is appended to the Order approving the election. The unsigned affidavit states: "[t]he boundaries and plat of the proposed City of Constitution City, when incorporated is attached to this Application and incorporated herein for all purposes and includes therein no territory except that which is intended to be used strictly for city purposes. (*See* attached Exhibit B, Boundaries of Proposed City and Exhibit C, Legal Description of Proposed City)."[28]

136. There is no Exhibit, or any other document, titled "Boundaries of Proposed City," nor is there an Exhibit C "Legal Description of Proposed City" attached to the Application.

137. It also failed to provide a plat or legal document that described the land sufficiently for filing in the County land records as required by Tex. Loc Gov Code § 7.008.

[28] *See id.*

C. There Are Fatal Defects In The Order Authorizing The Incorporation Issue To Be Included In The Election.

138. Just as there were defects in the Application, there are defects in the Order allowing the election.

139. The Order signed August 13, 2025, permits an election, but it is specifically for a Type C municipality pursuant to Chapter 8 of the Texas Local Government Code, as shown below:

> IT IS, THEREFORE, ORDERED that an election be held on the 4th day of November, 2025, in Hood County, Texas, which is situated within the territory described in said application, for the purpose of submitting to the qualified voters of such territory, the question of the incorporation of the City of Mitchell Bend, Texas, under the provisions of Chapter 8 of the Texas Local Government Code.

140. As discussed above, the Texas Local Government Code allows for the creation of different types of municipal entities—Types A, B or C. They have different government forms as well as different requirements for creation, e.g., a requirement of 50 votes on a petition for type B, compared to a requirement of 10% of the population for Type C.

D. There Are a Multitude of Inconsistencies Between the Application, Order and Ballot.

141. The Application requests an election on the question of incorporation of a municipality pursuant Chapter 8 of the Texas Local Government Code, which only governs Type C general-law municipalities.

142. However, according to a sample ballot[29] produced by Elections Administrator Cooper, this is the question to be voted upon: "Shall the city of Mitchell Bend be incorporated as a type B, General Law Municipality?"

[29] Excerpt from Hood County Elections Administration, Sample Ballot for Nov. 4, 2025 Election, Hood County Official Website (Oct. 14, 2025), https://hoodcountytx.documents-on-demand.com/Document/1be3e8e65199-f011-a46e-000c29a59557/Nov.%202025_MBCTY&GISD%20Sample%20Ballot.pdf, attached as **Exhibit 12**, at 2.

143. Somehow, the Order authorizing the Ballot said related to a Type C corporation, but whoever wrote the ballot changed it to a Type B.


MITCHELL BEND

Mitchell Bend Incorporation
Incorporación de la Ciudad de Mitchell Bend

Shall the City of Mitchell Bend be incorporated as a Type B, General Law Municipality?
Debería incorporación de la Ciudad de Mitchell Bend como un Municipo de Ley General Tipo B?

☐ For *A Favor*

☐ Against *En Contra*

144. No communication was produced in the Open Records Request relating to who made the decision to put "Type B General Law Municipality" on the Ballot when the authorizing Order plainly states Chapter 8 of the Texas Local Government Code, which governs Type C.

145. For the Ballot to be different than the Application and the Order, there must have been some internal discussions among the Defendants.

146. Changing the Ballot without notice or opportunity to be heard is yet another example of Defendants acting above the law with the intent to achieve a pre-determined result.

147. The signed Order is also defective because it refers to a plat that does not exist. The Order reads "boundaries and plat for proposed City of Constitution City, when incorporated is attached to this Application and incorporated herein for all purposes."

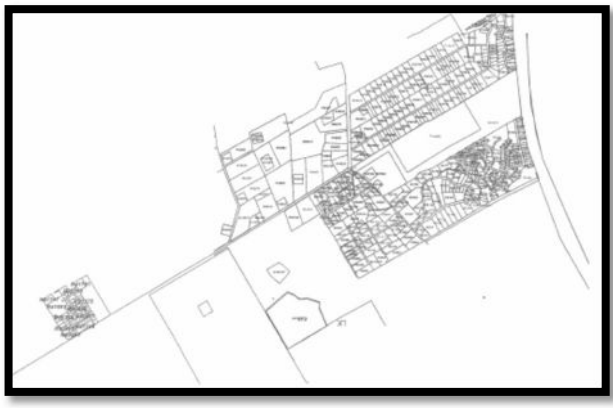
148. But there were no boundaries and plat attached to the Application, especially not for "Constitution City."

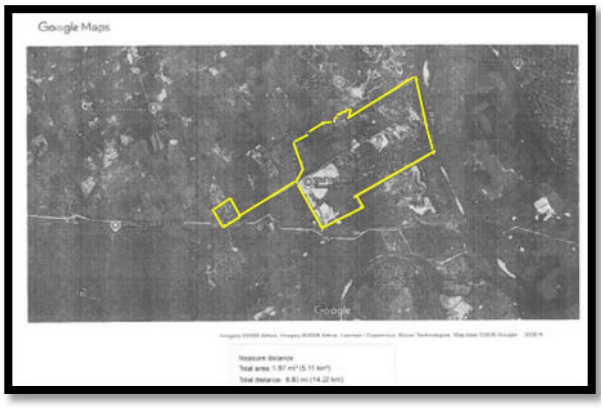
149. Because there were no "boundaries and plat" document(s) attached to the Application, none could be incorporated into the Order.

150. Instead of a legal description or plat, prepared by a surveyor, Mr. Lakey's Application attaches only blurry Google Maps images with lines drawn in by hand and what appear to be partial screen shots from Hood County's appraisal district website.

151. The Application asserts the area of the proposed city is 1.97 square miles based on a Google Maps function, but the area outlined on the Google Map does not match the map of the appraisal district lots.

152. From the Application's images and sketches, produced below, it is unclear exactly what is supposed to be incorporated. The image provided shows two areas separated by approximately a mile of road. Presumably for a mile, the "city" would consist of just a road but nothing to either side.





153. Without an accurate plat and certified list of who resides within it, there is no reliable way of knowing who is authorized to vote in this election.

E. Communications Between Defendants Reveal Knowledge of Their Actions' Constitutional Violations.

154. On February 9, 2023, County Attorney Mills receives a citizen's complaint about noise from the area that included a Crypto mining facility. MARA did not own or operate the

facility at this time.[30] In this email, County Attorney Mills makes comments to a resident: "We don't have anything above what state law provides, and that generally falls under Penal Code Section 42.01(a)(5). It has to be an 'unreasonable noise.' The Section goes on to say in (c)(2) that it's presumed to be unreasonable if the decibel level exceeds 85."

155. Beginning in March 2023, Nannette Samuelson, County Commissioner of Precinct 2, begins emailing County Attorney Mills and Constable John Shirley about what to do about perceived noise issues at the "crypto plant."[31]

156. On or about March 28, 2023, Mills and others acknowledge they have heard from a "back channel" that the server farm is "already looking into sound mitigation ideas based on complaints."

157. On March 28, 2023, Constable John Shirley writes to Nannette Samuelson via email stating that letter will be delivered to facility that says: "We've received documentation of multiple decibel readings from a constituent living near your facility that measured higher than the presumptive threshold in Texas Penal Code 42.01(c)(2). As such, this letter is Official Notice that the noise level emanating from your facility may be breaking Texas Law."[32]

158. Between March 2023 through March 2024, email correspondence shows Mills, Samuelson, and Constable Shirley discussing complaints from, so far, less than a handful of people about noise from the Crypto Plant. Plaintiff MARA did not acquire the Crypto Plant until January 2024.

[30] Email from County Attorney Matt Mills to a resident (Feb. 9, 2023), attached as **Exhibit 13**.
[31] *See generally* emails from Nannette Samuelson, County Commissioner of Precinct 2, to County Attorney Mills and Constable Shirley, attached as **Exhibit 14**.
[32] Email from Precinct 2 Constable Shirley to Precinct 2 County Commissioner Samuelson (Mar. 28, 2023), attached as **Exhibit 15**.

159. On February 2, 2024, County Attorney Mills responds to a resident complaining about noise: "Think they may be getting some citations soon that our office would prosecute in JP court. It's for disorderly conduct. I'm sure there are civil actions the neighbors could take too, but that wouldn't involve the county."[33]

160. In or about April 2024, Mills advised Samuelson on how to help the citizens find a private lawyer to sue MARA: "Are they ever going to hire a private lawyer and file suit? That's the one obvious solution ... We'll do our best with the citations though."[34]

161. By stating, "do our best with the citations," County Attorney Mills was referring to a scheme both he and Hood County Constable John Shirley hatched to take sound measurements across the road from the MARA facility and cite its site manager at the time, David Fisher, if the measurements were too high according to Texas Penal Code § 42.01 regarding disorderly conduct.

162. Between February 26, 2024, through April 7, 2024, Constable Shirley served 24 Citations for Disorderly Conduct on Mr. Fisher.[35]

163. Beginning July 8, 2024, through July 9, 2024, a two-day Jury Trial took place in Hood County Justice of Peace Court, where the jury returned a unanimous defense verdict on all counts against Mr. Fisher as the MARA site manager. County Attorney Mills was the prosecutor. Constable Shirley testified.

164. In or about July 2024, Mills worked with Samuelson to locate sound engineers and hire them to conduct a sound study paid for by the County. Upon the sound study's completion,

[33] Email from County Attorney Mills to residents (Feb. 2, 2024), attached as **Exhibit 16**.
[34] Email from County Attorney Mills to Precinct 2 County Commissioner Samuelson (Apr. 16, 2024, 8:52 AM CDT), attached as **Exhibit 17**.
[35] Citations for Disorderly Conduct served on Mr. Fisher, attached as **Exhibit 18.**

its results were produced in a report on November 1, 2024; these results did not show any excessive noise from the MARA facility and no perceptible vibration.[36]

165. On October 4, 2024, five Hood County Precinct 2 residents, including Daniel Lakey, form a nonprofit association they call "Citizens Concerned About Wolf Hollow" and retain the San Francisco-based environmental law firm EarthJustice to file suit in Hood County for a "permanent injunction" for private nuisance. That case is currently before this court subject to a motion to remand. *Citizens Concerned About Wolf Hollow v. Marathon Digital Holdings, Inc.*, No. 4:25-CV-01093-O (N.D. Tex. 2025).

166. On November 4, 2024, Samuelson sends Mills the results of the report and Mills responds, "Interesting. Looks Like we are done now."[37]

167. MARA is unsure of when certain Hood County officials began conversing with a few residents about the scheme to incorporate an area around and including MARA because, as the officials later admit in their emails, they made a concerted effort to keep MARA from finding out.

168. On July 7, 2025, MARA learns for the first time that Hood County Judge Ron Massingill signed an Order in May permitting an incorporation of a new municipality to appear on the ballot for November 4, 2025, elections.

169. On July 29, 2025, a California-based law firm named "Dias and Hall" files *Adair v. Marathon Digital Holdings, Inc.*, No. C2025338 (Tex. Dist. Ct.—Hood Cnty Jul. 29, 2025) ("*Adair*") with the same five members of CCAWH, including Lakey, in addition to 18 other residents of Hood County. That case was removed to this Court. *Adair*, No. 4:25-CV-00845-O

[36] Nick McCabe and Brian Howe, *Noise Review, Marathon Digital Holdings Bitcoin Mine, Hood County* Texas, HGC Noise Vibration Acoustics ["Hood County Sound Study], attached as **Exhibit 19**.
[37] *See* **Exhibit 7**.

(N.D. Tex. 2025). Plaintiffs initially named Mr. Fisher to defeat diversity but this Court later found that he was fraudulently joined. Order, Dkt. No. 12, *Adair*, No. 4:25-CV-00845-O (N.D. Tex. Oct. 15, 2025).

170. On August 5, 2025, Counsel for MARA, Paula Pendley, writes Judge Massingill asking that he vacate his May 2 order a vote on an Application to Incorporate based on multiple deficiencies in the Application and requested an opportunity to be heard and notified of any future filings concerning an incorporation effort ("First Application").[38]

171. On August 6, 2025, Mills writes to other Hood County officials, including Samuelson, and copies Defendant Stephanie Cooper:[39]

> I just talked to Stephanie about this, and we wanted the rest of the court to be in the loop about this issue. An area in precinct 2 is trying to have an incorporation election, but it appears some of their required signatures are insufficient. However, the judge signed an order months ago to allow them to go forward. The incorporation is being opposed by Marathon, which is located inside this area. Marathon has complained that they weren't notified of the incorporation effort, and found out much later. But now the petitioners (apparently) haven't been notified of the opposition to their petition. The deadline for ballot measures is August 18, I believe. It seems possible that the judge could invalidate the petition on the eve of the deadline, and the petitioners might not have time to correct anything or add valid signatures. Stephanie and I are in uncharted water with how to proceed from here.

172. In response, Samuelson asked Defendants Mills and Cooper, "Have either of you notified the petitioners? I think that would be a first step to allow them to solve the signature issue if one exists."[40]

[38] Email from Paula Pendley, counsel for MARA, to County Judge Massingill (Aug. 5, 2025, 12:07 PM CDT) requesting to vacate Order entered May 2, 2025, attached as **Exhibit 20**.
[39] *See id*.
[40] *Id*.

173. Mills responds that he has not but "figured you're probably in touch with them a lot and can relay the message."[41]

174. Stephanie Mills replies "I have not. I've removed myself from speaking with either party due to it being at a legal level now."[42]

175. On August 7, 2025, Mills says to Assistant County Attorney Quine:

> Can you please do some research on this before Tuesday's meeting? The story is that a group in precinct 2 got signatures together to have an election to become a city, presumably to enact ordinances regarding the bitcoin facility. The judge approved their petition three months ago. Marathon didn't know it was going on at the time, but since hired lawyers and investigated the signatures. They've now argued the petition is insufficient. I think they've also complained that the map isn't up to requirements too. Stephanie agrees the signatures are insufficient after further review.
>
> [. . .]
>
> The question is what's next. If the judge signed it without commissioners court's approval, how is it now a commissioners court issue to resolve? (**It's on the Tuesday agenda.**) Who has authority to approve or deny an application? Should it just be in civil court? Also, I believe the deadline for ballot measures is August 18, or thereabouts. **If and when the petition is deemed insufficient, do the petitioners have enough time to rectify it? They've thought for the last three months they were good.** I'll send whatever else I have on this for your investigation. Stephanie isn't sure what she should do.
>
> (emphasis added).

176. In response, Assistant County Attorney Quine responds, "Good grief! I'll try but have no idea where to look."[43]

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[41] *Id.*
[42] *Id.*
[43] Email from County Attorney Mills to Assistant County Attorney Quine (Aug. 7, 2025, 11:39 AM CDT), attached as **Exhibit 21**.

177. The incorporation effort was not merely kept secret from MARA; the County also knew the purpose of the municipal incorporation effort was to regulate MARA. This becomes important when analyzing the statutory prerequisites to qualify for a vote on incorporation.

178. Mills is concerned that if the judge invalidates his order on the first application that the petitioners might not have "have enough time to rectify it" because "[t]hey've thought for the last three months they were good."

179. Danny Lakey is a plaintiff in both lawsuits against MARA. He also submitted the Application for Incorporation to the County.

180. On August 8, 2025, Assistant County Attorney Quine asks Cooper (with Mills cc'd): "Why do you think the signatures are insufficient?"[44]

181. But before Cooper can respond to Quine's question, she gets a not-so-subtle letter from Incorporation Lead advocate (and Proposed Mayor) Lakey on August 8, 2025, that suggests that Ms. Cooper should say that she verified all signatures on the First Application (despite that she acknowledged they were insufficient):[45]

> Ms. Cooper,
>
> I am certain you have heard that Marathon is causing some issues with our election. In a letter written to Judge Massingill, Marathon claims that the voter signatures we presented to you were never independently verified by you or anyone in Matt Mills office and there were not 50 valid signatures. We know this to be false. It is true the attorney's office did not verify the signatures; however I know that you verified, very diligently, each and every name and found there to be 50 valid signatures. Would it be possible for you to send me, or Judge Massingill (both) a short email stating that You did verify the signatures and found the required 50 registered voters supporting the election.

[44] Emails between County Attorney Mills, Assistant County Attorney Quine, and Elections Administrator Cooper regarding signature verification (Aug. 8, 2025), attached as **Exhibit 22.**

[45] Email from Daniel Lakey to Elections Administrator Cooper (Aug. 8, 2025, 8:00 AM CDT), attached as **Exhibit 23**.

182. Lakey's August 8, 2025, letter to Cooper continues:[46]

> I will be in Commissioners Court on Tuesday. Marathon has put an item on the court docket to strike the election. However, I will be arguing:
>
> 1. The commissioners court has no standing in this matter. This is a matter for Judge Massingill only.
>
> 2. Marathon has no standing in the court as this is a matter for the people of Mitchell Bend and Marathon is a Fl based company, not a Texas company and any efforts to stop the election could possibly be election interference.
>
> 3. The petition to have an election on incorporation was completed, and verified to be valid by the Hood County Elections Administrator.
>
> As this matter should be between the people of Mitchell Bend, Judge Massingill and the Elections Administrator, I would greatly appreciate you letting Judge Massingill that you believe the Election Petition to be valid and should be held the first Tuesday in Nov.

183. On August 8, 2025, soon after receiving Lakey's letter, Cooper responds to Quine's question from earlier that morning asking why she thinks the signatures are insufficient:[47]

> I'm not sure which signatures the group who submitted the letter are referring to. Neither party involved have come to me requesting that I verify the signatures so I'm also unsure of what data they are comparing them to. Once requested, I will verify the signatures submitted to me.

184. Subsequently, still on August 8, 2025, Mills email to Samuelson, Massingill, and others in Hood County government to propose taking Mitchell Bend Incorporation off Agenda and notes that the organizers wanted it off: [48]

> I'm still working through this Mitchell Bend stuff as quickly as possible, working with Stephanie and Allen. I understand when it was placed on the agenda, it was right at our deadline for agenda items, so we would rather be safe than sorry. However, in reviewing the laws a bit more, I think it's just a county judge issue and not a commissioners court issue. One of the leaders of the Mitchell Bend

[46] *Id*.
[47] *See* **Exhibit 22**.
[48] *Id*.

> side also made this point to Stephanie in an e-mail, and I believe he is correct. If anyone has different info on this matter, please let me know.

185. The agenda item for discussion of incorporation was removed before the Agenda was published, therefore, giving no notice to any member of the public, including residents impacted by incorporation and MARA.

186. During the open comments portion at the beginning of the Hood County Commissioners Court meeting on August 12, 2025, Lakey and six others were allowed to speak in favor of incorporation.[49]

187. When one person tried to ask a question about incorporation, that person was silenced because the issue of incorporation was supposedly not on the agenda.

188. The events after that hearing show Mills and Quine, feverously trying to help get the petition signed.[50]

189. In the afternoon following the Commissioners Court meeting, on August 12, 2025, Beth Stanley, Court Administrator to County Judge Massingill, sends Mills and Cooper the letters from MARA and Power Plant Attorneys and says: "The Judge ask that you please note the other objections to the petition that do not relate to the signatures."[51]

190. In response to Stanley, Assistant County Attorney responds to Quine responds to Stanley, Mills, Cooper in the afternoon of August 12, 2025, that he is "ready to recommend to the Judge to sign the Order, as are Matt and Stephanie."[52] This recommendation to sign the order came

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[49] The proceedings of the Aug 12 Hood County Commissioners Court Meeting are published on YouTube at https://www.youtube.com/watch?v=XC_03RSjfkc.

[50] *See, e.g.,* email from Daniel Lakey to County Attorney Mills after the hearing where Lakey was allowed to make his argument on incorporation (Aug. 12, 2025, 11:21 a.m. CDT), attached as **Exhibit 24**, where Lakey writes, "Here is a packet and all the data that goes with it."

[51] *See* **Exhibit 3**.

[52] *Id.*

only 32 minutes after Ms. Stanley asked Cooper and Mills to note the "other objections to the petition that do not relate to the signatures."

191. On August 12, 2025, Cooper writes to County Clerk Melissa Welborn with Mills cc'd: [53]

> Attached is what I received from Mr. Lakey today after he left Commissioners Court. I believe that he has signed his portions of the application and left them with either the Judge's office or Mr. Mills. If the signed documents exist, should we use those instead of the copies I have?
>
> I've also attached the new petition pages and **a document stating my verification of 59 qualified signatures. Beyond that, I have no authority to say whether the application packet meets all other legal requirements**.

192. On August 12, 2025, there was further discussion between Mills and Quine about how they could quickly get the Application approved. While not fully comprehending the procedural requirements, Mills and Quine emphasize their perceived urgency of the situation. Quine writes, "…Did the judge sign today? We need this sorted out quickly."[54]

193. Later that same day, Quine reiterates the urgency to Mills: "I wrote Beth - copied you. I don't think he signed it yet. I know time is of the essence!"[55]

194. On August 14, 2025, Mills writes to Quine saying he is conferring with a local attorney, Brady Pendleton, who is also the one informally representing the group trying to incorporate, which includes Mr. Lakey.[56]

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[53] *See* **Exhibit 4.**
[54] *See* **Exhibit 6.**
[55] *Id.*
[56] Email from County Attorney Mills to Assistant County Attorney Quine (Aug 14, 2025, 9:17 AM CDT) attached as **Exhibit 25** ("Do you have any thoughts on this? Also, I'm not sure if you knew this, but Brady Pendleton has been helping the Mitchell Bend group unofficially. I sent this [letter from Constellation pointing out legal defects in order for election] to him for his feedback too. I haven't heard back yet. I talked to him late yesterday.).

195. On August 14, 2025, Quine tells County Clerk Christine Leftwich that Lakey wants the packet sent to Mills and his signed Application to be entered into the minutes for the August 12, 2025, Commissioners Court meeting. However, he inquiries about its propriety: "Is it appropriate even though it was not on the agenda but came up in the open session?"[57]

196. On August 14, 2025, in response to Quine's inquiry, Mills responds admitting to the inappropriateness since it was not on the agenda: "I would say no."[58]

197. On August 14, 2025, MARA's counsel, Paula Pendley, sends a follow up email to Massingill, asking him for a status on whether the first Order was vacated and again requesting an opportunity to be heard on the issue of incorporation and the deficiencies in the Application. Ms. Pendley renews her request to be given notice of any other filings of this effort.[59]

198. On August 14, 2025, after being notified of Ms. Pendley's email by Ms. Stanley, Mills emails Ms. Stanley, Allen Quine and Ms. Cooper, stating: [60]

> My take after discussing with Allen is we will leave this alone. If Marathon wants to sue over it, the courts are open. ... . . . The petitioners did their signatures and had approval in early May. They thought they were fine up until very recently. Then they got a whole new round of signatures with more than enough. Stephanie signed off. **Now there's arguably an issue with the size and other matters, but we don't have the time and resources to really investigate all that at the last minute.** I think when it's a close call, courts prefer open elections over technicalities leading to default.

199. Neither County Judge Massingill, County Attorney Mills, nor anyone else sent a response to MARA's counsel's letter and email.

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[57] Email from Assistant County Attorney Quine to County Clerk Christine Leftwich (Aug. 14, 2025 12:16 PM CDT), attached as **Exhibit 26**.
[58] *Id*.
[59] *See* **Exhibit 6.**
[60] *Id*. (emphasis added).

200. On August 21, 2025, a news article published that Judge Massingill had signed a new Order on a Second Application for Incorporation.[61]

201. On September 4, 2025, MARA's local counsel filed an Opens Records request for a copy of any potential new Application and signed Order to which Melissa Welborn, Hood County Human Resources Director, provided. Upon MARA's receipt and analysis of the second Application, MARA ultimately identified more deficiencies.

202. On October 2, 2025, MARA's counsel, Paula Pendley, sends a letter to County Judge Massingill setting forth each of the defects in the Second Application.[62]

203. On October 3, 2025, County Attorney Mills responds to Ms. Pendley's letter to County Judge Massingill:[63]

> The county judge received your newest request to invalidate the coming election. I forwarded it to our consultant in Austin for feedback, and his opinion was similar to my first take. And that is that the courts are open for a filing for an injunction, but the county isn't going to invalidate the petition at this time.

204. This email came well after Mills admitted to other Hood County officials that he knew the Order allowing the election was defective on August 14, 2025: "[n]ow there's arguably an issue with the size and other matters, but we don't have the time and resources to really investigate all that at the last minute."[64] Mills was referring to the size of the area to be incorporated—one of many defects in the Application that was identified and raised in MARA's letter.

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[61] *See* Elizabeth Campbell, *Hood County judge faces criminal complaint of election interference*, FORT WORTH STAR-TELEGRAM (Aug. 21, 2025, 5:10 PM CDT), https://www.star-telegram.com/news/local/article311683119.html?fbclid=IwY2xjawMVu45leHRuA2FlbQIxMQABHsAMnul2-dadSfuMAU_PiXoBdprkVmbtT6Q7p-RcJrpeXJCZ0_maTdPLK4u7_aem_qYslu1bijvGSokOiF_bNsg.

[62] Email from Paula Pendley, Counsel for MARA, to County Judge Massingill (Oct. 2, 2025, 10:30 AM), attached as **Exhibit 27**.

[63] Email from County Attorney Mills to Paula Pendley and Robert Thackston, Counsel for MARA, with Brenda Lampert and County Court Administrator Beth Stanley cc'd (Oct. 3, 2025, 2:33 PM CDT), attached as **Exhibit 28**.

[64] *See* **Exhibit 6.**

F. Defendants Violate the Open Meetings Act to Fasttrack the Incorporation Issue.

205. On August 12, 2025, the Hood County Commissioners Court held a public meeting.[65] The published agenda for this meeting did not list or otherwise identify "incorporation," "municipal formation," or the like as a topic to be discussed at the meeting.[66]

206. At this meeting, Daniel Lakey presented the Application for Incorporation to County Judge Massingill and other members of the Commissioners Court.[67]

207. Mr. Lakey discussed the merits of his Application for Incorporation and represented that he had obtained sufficient valid signatures for the issue of incorporation of an area of Hood County that Mr. Lakey identified as "Mitchell Bend" to go on the ballot.

208. There was no public meeting notice given for when the Application would be discussed.

209. The incorporation issue had initially been on a draft of the Agenda but was taken off at the request of Mr. Lakey, the incorporation organizer.[68]

210. County Attorney Mills complied with the request and instructed those responsible for publishing the notice to take that issue off of the agenda.

211. Yet, at the Hood County Commissioners Court meeting on August 12, Mr. Lakey and six others spoke in favor of the meeting.

212. Because of lack of public notice, no one was there to speak for residents who opposed having an election.

213. Considering the requirements of Section 7.001 that only a *town or community* may apply to be incorporated, it is clear why Defendants wanted no public debate.

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[65] *See* Lakey Remarks, *supra* note 20.
[66] Hood County Commissioners Court First Amended Agenda for Aug. 12, 2025, Meeting, attached as **Exhibit 29**.
[67] *See* Lakey Remarks, *supra* note 20.
[68] *See* **Exhibit 23**.

214. Judge Massingill could have asked residents questions about whether the proposed area had any characteristics of a "community."

215. This favorable treatment towards the array of the Application's proponents—who were signed up to speak with prepared remarks addressing the Application—is strong circumstantial evidence that Hood County officials colluded with Mr. Lakey and the other pro-incorporation organizers to have only proponents speak at the public hearing.[26]

216. County Judge Massingill did not hold a hearing on the Application.

217. Neither MARA, the Doe Plaintiffs, nor any resident of Hood County who was not involved in drafting the Application received any notice that it would be discussed at a public meeting.

218. This was by design. As one citizen, Shannon Wolf, publicly stated at a Townhall meeting after the measure was on the Ballot: "We did it quietly because we didn't want bitcoin knowing. It was just to get it on the ballot before Marathon or Constellation could find out about it."[69]

219. County Attorney Mills also admitted, "Marathon did not know this was going on at the time."[70]

220. After its experience with the first failed application, MARA specifically requested that County Attorney Mills give it notice of any further incorporation applications submitted to the County.

221. Mills' refusal to give MARA notice is telling as the emails above indicate he was determined to get information the petitioners in time for them to get more signatures. He believed

[69] Vote NO incorporating Mitchell Bend, "Audio / video files for the meeting last night," (Facebook, Oct. 13, 2025), https://www.facebook.com/share/17MgQuKsiA/?mibextid=LQQJ4d.
[70] *See* **Exhibit 21** (County Attorney Mills states, "Marathon didn't know it was going on at the time").

MARA should act quicker to give the incorporation proponents, so they could pass regulation affecting MARA.

222. Lakey's view of constitutional rights is that MARA was not—and is not—entitled to no rights because it is a "[FL] based company corporation, not a Texas company."[71]

223. As a licensed attorney, County Attorney Mills knows better, but he took it upon himself to decide which citizens are entitled to equal protection of the law and due process. MARA and the Doe Plaintiffs are on the losing end of his calculus.

224. Mills literally forced MARA, Doe Plaintiffs, and anyone else in Hood County who wanted the protections guaranteed to them by the United States Constitution, to take him to court to vindicate those protections.

CLAIMS FOR RELIEF

COUNT I
Violation of Fourteenth Amendment – Equal Protection and Procedural Due Process
as to Defendants Judge Massingill, Matt Mills, and Stephanie Cooper
(42 U.S.C. § 1983)

225. MARA incorporates the preceding paragraphs as if fully set forth herein.

226. A corporation is entitled to due process, *Helicopteros Nacionales de Colombia v. Hall*, 466 U.S. 408, 104 S. Ct. 1868, 80 L. Ed.2 d 404 (1984), and equal protection, *Metropolitan Life Ins. Co. v. Ward*, 470 U.S. 869, 105 S. Ct. 1676, 84 L. Ed. 2d 751 (1985), of law. *Browning-Ferris Industries of Vermont, Inc. v. Kelco Disposal, Inc.*, 492 U.S. 257, 285, 109 S. Ct. 2909, 2925, 106 L.Ed.2d 219 (1989) (O'Connor, J., con.); accord *Louis K. Liggett Co. v. Lee*, 288 U.S. 517, 536, 53 S. Ct. 481, 485, 77 L. Ed. 929 (1933) ("Corporations are as much entitled to the equal protection of the laws guaranteed by the Fourteenth Amendment as are natural persons");

[71] *See* **Exhibit 23**.

Northeast Georgia Radiological Associates, P. C. v. Tidwell, 670 F.2d 507, 512 (5th Cir. 1982) ("A corporation is a "person" who possesses fourteenth amendment due process rights."). As a result, a corporation can sue for violation of its rights under 42 U.S.C. § 1983. *Laredo Road Co. v. Maverick County, Texas*, 389 F. Supp. 2d 729, 733 (W.D. Tex. 2005).

227. "Section 1983 creates a private right of action for redressing violations of federal law by those acting under color of state law." *Olabisiomotosho v. City of Hous.*, 185 F.3d 521, 525 (5th Cir. 1999) (citing *Migra v. Warren City Sch. Dist. Bd. of Educ.*, 465 U.S. 75, 82, 104 S. Ct. 892, 79 L. Ed. 2d 56 (1984)); *see* 42 U.S.C. § 1983. To prevail on a Section 1983 claim, "a plaintiff must (1) allege a violation of a right secured by the Constitution or laws of the United States and (2) demonstrate that the alleged deprivation was committed by a person acting under color of state law." *Doe ex rel. Magee v. Covington Cnty. Sch. Dist. ex rel. Keys*, 675 F.3d 849, 854 (5th Cir. 2012) (quoting *James v. Tex. Collin Cnt*y., 535 F.3d 365, 373 (5th Cir. 2008)).

228. All Defendants were engaged in state action in their scheme to deprive Plaintiffs of its constitutional rights under 42 U.S.C. § 1983. Defendants intentionally and purposefully engaged in a pattern of conduct intended to give an advantage to a certain group of citizens to the disadvantage of Plaintiffs.

229. Defendants denied MARA and the Doe Plaintiffs equal protection by giving certain citizens preferential treatment, and in some instances completely ceding their governmental power to, and by (a) meeting with them to plan a strategy for getting the incorporation application on the ballot; (b) denying public notice of the upcoming application to be presented at an open meeting on August 12; (c) intentionally removing the topic of incorporation from the Agenda for the Hood County Commissioners Court public meeting on August 12, 2025, at Mr. Lakey's request; (d) allowing Mr. Lakey, as well as six other incorporation proponents, to speak in favor of the

Application despite intentionally removing the topic of incorporation from the Agenda; (e) stopping someone who appeared to be questioning incorporation by claiming it could not be discussed because it was not on the Agenda; (f) refusing to let opponents of the Application speak at the hearing, claiming the topic was not on the Agenda; and (g) excusing application of the law to incorporation proponents by granting the Application for an incorporation vote, despite it being so flawed that it did not even name the city consistently and provided no legal description or plat.

230. Defendants also acted intentionally to violate Plaintiff's civil rights including the right to due process by refusing to give MARA any notice of the actions it was taking with respect to incorporation despite knowing that the main—if not only—goal for incorporation was to tax and harass MARA out of existence.

231. Pursuant to 42 U.S.C. § 1983, MARA and the Doe Plaintiffs also seek a declaratory judgment that its constitutional rights under the United States Constitution were violated. Plaintiffs were only permitted to determine the propriety of the incorporation application after orders had been signed. Defendants engaged in a pattern of deliberate conduct designed to foreclose any notice and participation in the Application for Incorporation effort. The reason for not allowing notice or opportunity to participate is that Defendants were actively colluding with proponents of the incorporation to get that issue on the November 4, 2025, Ballot despite it violating nearly all requirements of Texas municipal incorporation law set forth in Sections 7.001 and 7.002 of the Texas Local Government Code. These Actions have set about a process specifically intended to deprive Plaintiffs of property without due process of law and denies them of equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution. By forcing them into the middle of a contentious illegal sham election, it also deprives them of their right to be left alone.

COUNT II
Violation of Fourteenth Amendment – Equal Protection and Procedural Due Process
as to Defendant Hood County
(42 U.S.C. § 1983)

232. MARA incorporates the preceding paragraphs as if fully set forth herein.

233. To establish a Section 1983 claim for municipality liability, "a plaintiff must show that (1) an official policy (2) promulgated by the municipal policymaker (3) was the moving force behind the violation of a constitutional right." *Peterson v. City of Fort Worth*, 588 F.3d 838, 847 (5th Cir. 2009); *see also Monell v. Dep't of Soc. Servs. of City of N.Y.*, 436 U.S. 658, 694, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978). "The three attribution principles identified here—a policymaker, an official policy and the 'moving force' of the policy—are necessary to distinguish individual violations perpetrated by local government employees from those that can be fairly identified as actions of the government itself." *Piotrowski v. City of Hous.*, 237 F.3d 567, 578 (5th Cir. 2001).

234. The facts described above violate the Plaintiffs' rights to equal protection under the law and of due process under the Fourteenth Amendment as to Defendant Hood County acting through its highest official, County Judge Massingill, County Attorney Mills, and Elections Administrator Cooper.

235. Hood County, acting through its chief executive County Judge Massingill, County Commissioner Samuelson, and County Attorneys Mills and Quine, allowed harassing MARA to become Hood County policy. They forfeited any independent judgment to the most vocal group of residents willing to bully others into accepting their point of view.

COUNT III
Conspiracy to Deprive Plaintiff's Constitutional Rights
as to All Defendants
(42 U.S.C. § 1985)

236. MARA incorporates the preceding paragraphs as if fully set forth herein.

237. The acts described above reflect a conspiracy of Defendants to act in a way that was intended to and did violate the constitutional rights of Plaintiffs.

238. Defendants intentionally kept their actions secret despite a duty to conduct hearings and make decisions in public.

239. Defendants conspired to find ways to help a chosen few gain the benefits that government can bestow, in this case, allowing an issue to go on a ballot for election without having to satisfy any of the legal requirements required by law.

240. Defendants handed out the opportunity to create a municipality that the promoters would be able to run that carried the immense power to tax and regulate.

241. Defendants did this despite knowing their actions ran contrary to Texas state law directing the narrow and specific conditions under which this power could be exercised.

242. In doing so, Defendants are intentionally targeting MARA for unconstitutional denial of equal protection and due process.

243. Some citizens urged Defendants to treat MARA as though it has no rights solely because it is an out of state corporation. This interpretation is plainly contrary to the Constitution.

244. The County Attorney and a County Judge are both licensed attorneys; so, at least two of the Defendants know better.

COUNT IV
***Ultra Vires* Actions in Violation of Texas Election Code**
as to All Defendants
(Tex. Elec. Code § 276.019)

245. MARA incorporates the preceding paragraphs as if fully set forth herein.

246. Because Hood County is a political subdivision within the State of Texas, Hood County and its officials only possess powers granted to them by Texas statute. *See* Tex. Elec. Code § 276.019 ("A public official or election official may not create, alter, modify, waive, or suspend any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by this code.").

247. Based on the foregoing evidence, the Application did not meet Texas statutory requirements. Therefore, Judge Massingill had no legal authority or jurisdiction. *See State v. Hollins*, 620 S.W.3d 400 (Tex. 2020) ("[officials] possess[] only those powers 'granted in express words' or 'necessarily or fairly implied in' an express grant—powers 'not simply convenient' but 'indispensable.' Any reasonable doubt must be resolved against an implied grant of authority.").

248. Texas statutory law is specific and unambiguous about when and how citizens may petition for incorporation of a municipality. *See Sorokolit v. Rhodes*, 889 S.W.2d 239 (Tex. 1994) ("If language in a statute is unambiguous, this court must seek the intent of the legislature as found in the plain and common meaning of the words and terms used") (citations omitted); *see also Laidlaw Waste Sys. (Dallas), Inc. v. City of Wilmer*, 904 S.W.2d 656 (Tex. 1995) ("general rule that courts should not insert words in a statute except to give effect to clear legislative intent") (citations omitted).

249. Plaintiffs request that the Court declare that Judge Massingill's Order exceeded his authority and that he lacked jurisdiction as county judge because no provision of the Texas Election

Code nor the Texas Local Government Code granted him the authority to allow an election, given the multiple, fundamental statutory and constitutional violations.

250. Pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, Plaintiffs seek a declaration that Judge Massingill's Order granting the Application and allowing an election for the proposed incorporation was an *ultra vires* act and as a result, the Order is void.

COUNT V
Violation of the Texas Open Meetings Act
as to All Defendants
(Tex. Gov't Code § 551.041)

251. MARA incorporates the preceding paragraphs as if fully set forth herein.

252. Under Texas law, every regular, special, or called meeting of a governmental body shall be open to the public. Tex. Gov't Code § 551.002. However, having a meeting open to the public is not worth much if the public does not know the topics to be discussed. Accordingly, under Texas law, the governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body. Tex. Gov't Code § 551.041. Such statutorily mandated notice is sufficient if it informs the reader that "some action" will be considered with regard to the topic. *Lower Colo. River Authority v. City of San Marcos*, 523 S.W.2d 641, 646 (Tex. 1975). Nevertheless, the required specificity of the notice is directly related to the level of public interest in the topic to be discussed, and thus increases as the public's level of interest increases. *City of Donna v. Ramirez*, 548 S.W.3d 26, 36 (Tex. App.—Corpus Christi 2017, pet. denied).

253. While the Open Meetings Act permits the governmental body to respond to inquiries from citizens at meetings, it does not permit consideration or action to be taken on such inquires. Tex. Gov't Code § 551.042; *Hays County Water Planning Partnership v. Hays County, Texas*, 41 S.W.3d 174, 181 (Tex. App.—Austin 2001, pet. denied). Accordingly, Defendants' sole action when presented with the application would be to place it on the agenda for the next hearing.

254. "An action taken by a governmental body in violation of this chapter is voidable." Tex. Gov't Code § 551.141; *Wells v. Hutchinson*, 499 F. Supp. 174, 203 (E.D. Tex. 1980). Accordingly, Defendants' actions in accepting the Application and holding the election should be voided.

RELIEF REQUESTED

255. Plaintiffs move for a Temporary Restraining Order prohibiting Hood County from holding an election November 4, 2025, on the Mitchell Bend Incorporation Issue, which was placed on the ballot illegally in violation of state law. If any ballots have already been disseminated and ballot envelopes are received, they shall not be opened, shall be sequestered, and immediately turned over to the Court. After hearing, Plaintiffs will request a preliminary injunction, and then permanent injunction, to enjoin any efforts to have an illegal election in violation of Texas statutory requirements. This TRO will expire in 14 days unless extended for a like period.

256. MARA moves for a Preliminary and Permanent Injunction to bar a sham election orchestrated based on a facially defective Incorporation Application and invalid County Judge Order.

257. MARA moves for declaratory relief that the petition for incorporation was defective for failure to satisfy the statutory prerequisites set forth in Tex. Loc. Gov't Code § 7.002, and the Order based on it was invalid.

258. MARA also seeks declaratory judgments that:

(a) the Hood County ballot is defective and may not be used because it does not accurately reflect the court's order approving an election;

(b) the Order allowing the issue on the ballot is void because it ignored the defects on the face of the Application, including but not limited to, no

description of boundaries, no plat offer or attachment giving a legal description of the land to be included in the incorporation, and contradictory names offered for the municipality;

(c) the Application for a Type C municipality was defective for multiple reasons, including that it variously referred to both Type B and Type C municipalities and did not satisfy the statutory requirements of either Tex. Loc. Gov't Code §§ 7.001–7.008 or Tex. Loc. Gov't Code §§ 8.001–8.026, respectively; and

(d) Defendants' conduct violated Plaintiffs' right to Equal Protection and Due Process of law as guaranteed by 42 U.S.C. §§ 1983, 1985, and the Fourteenth Amendment to the United States Constitution.

259. Plaintiffs request all other relief, general or special, at law or in equity, to which they may be justly entitled.

CONCLUSION

MARA and the Doe Plaintiffs would prefer not to have to go to court to protect their basic constitutional rights. But Defendants trampled those rights, and dared Plaintiffs to sue to get them back. Plaintiffs pray that this Honorable Court grant the Relief Requested and any other relief to which they have shown themselves entitled.

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Respectfully submitted,

By: */s/ Robert E. Thackston*

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